

SCOTTISH STATUTORY INSTRUMENTS

2017 No. 102

The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017

PART 12

Amendments Revocations and Transitional Provisions

Amendment of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992

56.—(1) Article 3 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 ^{M1} is amended in accordance with paragraphs (2) to (6).

(2) In paragraph (8) for “the Environmental Impact Assessment (Scotland) Regulations 2011” substitute “ the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 ”.

(3) In paragraphs (8)(a), (8A), (8B), (8C) and (9)(a), for “regulation 6”, in every place where those words occur, substitute “ regulation 8 ”.

(4) In paragraphs (8)(b), (8A)(b)(i), (8B)(b) and (9)(a), for “regulation 5(10) or 7(4)” substitute “ regulation 7(4) or 10 ”.

(5) In paragraphs (8)(c) and (9)(a), for “regulation 5(4)” substitute “ regulation 6(4) or (6) ”.

(6) In paragraph (9)(b), for “regulation 5(10) or (11), 7(4) or 45” substitute “ regulation 7(4), 10 or 50 ”.

Marginal Citations

M1 S.I. 1992/223 as relevantly amended by S.S.I. 1999/1 and S.S.I. 2011/139.

Amendment of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

57.—(1) The Development Management Procedure Regulations ^{M2} are amended in accordance with paragraphs (2) to (4).

(2) In regulation 3 (interpretation)—

(a) after the definition of “dwellinghouse” insert—

““EIA report” has the same meaning as in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017;”;

(b) in the definition of “environmental statement” after “2011” insert “ as those Regulations had effect on 15th May 2017 ”.

(3) In regulation 5(2) (content of pre-application screening notice) for “2011” substitute “ 2017 ”.

- (4) In Schedule 2 (registers under section 36(1))—
- (a) in paragraph 3(b) and in paragraph 4(c)(i) after “environmental statement” insert “ or EIA report ”;
 - (b) in paragraph 3(f) for “9(4)” substitute “12(5)” and for “2011” substitute “ 2017 ”; and
 - (c) in paragraph 4(e) for “regulation 5(11) or 45” substitute “ regulation 50 ” and for “2011” substitute “ 2017 ”.

Marginal Citations

M2 [S.S.I. 2013/155](#).

Amendment of the Town and Country Planning (Appeals) (Scotland) Regulations 2013

58.—(1) The Town and Country Planning (Appeals) (Scotland) Regulations 2013 ^{M3} are amended in accordance with paragraph (2).

- (2) In regulation 2 (interpretation)—
- (a) in the definition of “application for multi-stage consent” for “2011” substitute “ 2017 ”;
 - (b) for the definition of “EIA development” and “environmental statement” substitute—
““EIA development” and “EIA report” have the same meaning as in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017;
“environmental statement” has the same meaning as in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 ^{M4} as those Regulations had effect on 15th May 2017;”; and
 - (c) in the definition of “validation date”, in paragraph (a)(ii) for “environmental statement” substitute “ EIA report or environmental statement, as the case may be, ”.

Marginal Citations

M3 [S.S.I. 2013/156](#) as amended by [S.S.I. 2015/233](#) and [S.S.I. 2015/249](#).

M4 [S.S.I. 2011/139](#).

Amendment of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013

59.—(1) The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 ^{M5} are amended in accordance with paragraph (2).

- (2) In regulation 2 (interpretation)—
- (a) in the definition of “application for multi-stage consent” for “2011” substitute “ 2017 ”;
 - (b) for the definition of “EIA development” and “environmental statement” substitute—
““EIA development” and “EIA report” have the same meaning as in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017;
“environmental statement” has the same meaning as in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 as those Regulations had effect on 15th May 2017;”; and
 - (c) in the definition of “validation date”, in paragraph (a)(ii) for “environmental statement” substitute “ EIA report or environmental statement, as the case may be, ”.

Marginal Citations

M5 [S.S.I. 2013/157](#) as amended by [S.S.I. 2015/249](#).

Revocations and transitional provisions

60.—(1) Subject to paragraphs (2) to (4), the 2011 Regulations are revoked.

(2) The 2011 Regulations continue to have effect ^{F1}... in respect of an application for planning permission or a ROMP application, including consideration of such an application in the course of any appeal under section 47 or review under section 43A(8), where the developer has before that date—

- (a) submitted an environmental statement in connection with that application;
- (b) requested the planning authority under regulation 14(1) of the 2011 Regulations to adopt a scoping opinion in respect of the development to which the application relates; or
- (c) asked the Scottish Ministers under regulation 11(3) or 12(2) of the 2011 Regulations to make a scoping direction in respect of the development to which that application relates.

(3) Where the developer has before 16th May 2017 submitted an environmental statement in connection with the development to which an application for multi-stage consent relates—

- (a) the assessment under regulation 33(2)(a) as to whether or not there are significant effects on the environment which have not previously been identified and assessed is to be undertaken by reference to the scope of the information which immediately prior to 16th May 2017 had to be included in the environmental statement in accordance with schedule 4 of the 2011 Regulations; and
- (b) regulation 26(2) and paragraph (b) of the definition of “additional information” apply as if the reference to matters to be included in an EIA report in accordance with regulation 5(2) were a reference to the information which immediately prior to 16th May 2017 had to be included in the environmental statement in accordance with schedule 4 of the 2011 Regulations.

(4) Parts 1 and 2 and schedules 1 to 3 of the 2011 Regulations continue to have effect in respect of—

- (a) a request for a screening opinion under regulation 6(1) of the 2011 Regulations made to the planning authority before 16th May 2017;
- (b) a request for a screening direction pursuant to regulation 6(6) of the 2011 Regulations made to the Scottish Ministers before that date; or
- (c) a request for a screening direction pursuant to regulation 6(6) of the 2011 Regulations made to the Scottish Ministers after that date in connection with—
 - (i) the adoption of a screening opinion by the planning authority (whether before or after that date) following a request for a screening opinion made under regulation 6(1) of the 2011 Regulations before that date; or
 - (ii) the failure of the planning authority to adopt a screening opinion following a request for a screening opinion made under regulation 6(1) of the 2011 Regulations before that date;

(5) Where, pursuant a request referred to in paragraph (4), a screening opinion is adopted by the planning authority or screening direction is made by the Scottish Ministers in respect of a particular development, regulation 7(1) and (2) of these Regulations applies to the making of any subsequent screening direction in respect of that particular development by the Scottish Ministers under regulation 7(4) as if—

- (a) the reference in paragraphs (1)(a)(i) and (2)(a) to schedule 3 were a reference to schedule 3 of the 2011 Regulations; and
- (b) paragraphs (1)(a)(ii) and (b) were omitted.

(6) References in this regulation to provisions of the 2011 Regulations are references to such provisions as they had effect immediately before 16th May 2017 [^{F2}, subject to the modifications specified in paragraph (6A)].

[^{F3}(6A) The 2011 regulations are to be read as if—

- (a) in regulation 2(1) (interpretation)—
 - (i) at the end of the definition of “the CCS Directive” the words “, as Directive 2009/31/EC had effect immediately before IP completion day” were inserted,
 - (ii) at the end of the definition of “the Directive” the words “, as it had effect immediately before IP completion day” were inserted,
- (b) in regulation 5(4) (general provisions relating to screening), for “, in accordance with Article 2(4) of the Directive (but without prejudice to Article 7 of the Directive),” there were substituted “ in exceptional cases ”,
- (c) in regulation 36 (development in Scotland likely to have significant effects in an EEA other than the United Kingdom)—
 - (i) in the heading, the words “other than the United Kingdom” were omitted,
 - (ii) in paragraphs (1)(a) and (b), the words “other than the United Kingdom” were omitted,
 - (iii) in paragraph (2)(a), for “another” there were substituted “ an ”,
 - (iv) in paragraph (4)(a), for the words “referred to in Article 6(1) of the Directive and” there were substituted “ designated by the EEA State as authorities to be consulted and to ”,
 - (v) in paragraph (5)—
 - (aa) the words “in accordance with Article 7(4) of the Directive” were omitted,
 - (bb) in sub-paragraph (b) the word “other” were omitted,
- (d) in regulation 37 (projects in another EEA State likely to have significant transboundary effects)—
 - (i) in the heading, for “another” there were substituted “ an ”,
 - (ii) in paragraph (1)—
 - (aa) the words “other than the United Kingdom pursuant to Article 7(2) of the Directive” were omitted,
 - (bb) the words “, in accordance with Article 7(4) of the Directive” were omitted,
 - (cc) in sub-paragraph (b), from “to the competent authority” to the end substitute “ representations to the competent authority in that EEA State ”,
- (e) in regulation 46 (access to review procedure before a court), at the end there were inserted “(and for such purpose Article 11(1)(b) is to be read as if the reference to “a Member State” were a reference to “Scotland”).”,
- (f) in schedule 1 (descriptions of development for the purposes of the definition of “Schedule 1 development”)—
 - (i) in paragraph 21, after “pursuant to” there were inserted “ Chapter 3 of Part 1 of the Energy Act 2008 and any law of any part of the United Kingdom that implemented ”,

- (ii) in paragraph 22, for “pursuant to the CCS Directive” there were substituted “(pursuant to Chapter 3 of Part 1 of the Energy Act 2008 and any law of any part of the United Kingdom that implemented the CCS Directive)”,
- (g) in schedule 2 (descriptions of development and applicable thresholds and criteria for the purposes of the definition of “Schedule 2 development”), in item 3(j) in column 1 of the table, for “pursuant to the CCS Directive” there were substituted “(pursuant to Chapter 3 of Part 1 of the Energy Act 2008 and any law of any part of the United Kingdom that implemented the CCS Directive)”,
- (h) in schedule 3 (selection criteria for screening schedule 2 development)—
- (i) paragraph 2(c)(v) were read as if the references to “Member States” were references to “Scotland”,
- (ii) in paragraph 2(c)(vi) for “Community legislation” there were substituted “[^{F4}assimilated] law ”.]
- (7) These Regulations (other than this regulation) do not apply in respect of—
- (a) an application for planning permission or a ROMP application to which the 2011 Regulations continue to have effect by virtue of paragraph (2); or
- (b) a request for a screening opinion mentioned in paragraph (4).
- (8) References in any enactment to an environmental statement prepared, or having effect as if prepared, in accordance with the 2011 Regulations are treated as including a reference to an EIA report prepared in accordance with these Regulations.
- (9) The provisions specified in column 1 of the Table in schedule 6 are revoked to the extent specified in column 3 of that Table.
- (10) In this regulation—
- “the 2011 Regulations” means the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011; and
- “environmental statement” has the same meaning as in the 2011 Regulations.

- F1** Words in [reg. 60\(2\)](#) omitted (31.12.2020) by virtue of [The Town and Country Planning and Electricity Works \(EU Exit\) \(Scotland\) \(Miscellaneous Amendments\) Regulations 2019 \(S.S.I. 2019/80\)](#), regs. 1, **5(10)(a)** (as amended by [S.S.I. 2019/274](#), regs. 1, 2(2) and [S.S.I. 2020/310](#), regs. 1, 2(2), 4(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in [reg. 60\(6\)](#) inserted (31.12.2020) by [The Town and Country Planning and Electricity Works \(EU Exit\) \(Scotland\) \(Miscellaneous Amendments\) Regulations 2019 \(S.S.I. 2019/80\)](#), regs. 1, **5(10)(b)** (as amended by [S.S.I. 2019/274](#), regs. 1, 2(2) and [S.S.I. 2020/310](#), regs. 1, 2(2), 4(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F3** [Reg. 60\(6A\)](#) inserted (31.12.2020) by [The Town and Country Planning and Electricity Works \(EU Exit\) \(Scotland\) \(Miscellaneous Amendments\) Regulations 2019 \(S.S.I. 2019/80\)](#), regs. 1, **5(10)(c)** (as amended by [S.S.I. 2019/274](#), regs. 1, **2(2)** and by [S.S.I. 2020/310](#), regs. 1, **2(2)(6)**, 4(2) and by [S.S.I. 2019/274](#), regs. 1, **2(2)(3)(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F4** Word in [reg. 60\(6A\)\(h\)\(ii\)](#) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/374\)](#), reg. 1(1), **sch. 2 para. 32(3)**

Changes to legislation:

There are currently no known outstanding effects for the The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, PART 12.