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SCOTTISH STATUTORY INSTRUMENTS

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**2017 No. 102**

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

**PART 8**

**APPLICATIONS FOR MULTI-STAGE CONSENT**

**Prohibition on granting an application for multi-stage consent without an environmental impact assessment**

**32.** The planning authority or the Scottish Ministers, as the case may be, must not grant an application for multi-stage consent in respect of EIA development unless an environmental impact assessment has been carried out in respect of that development and in carrying out such assessment the planning authority or the Scottish Ministers, as the case may be, must take the environmental information into account.

**Application for multi-stage consent where EIA report previously provided**

**33.—(1)** This regulation applies in relation to the consideration—

- (a) by the planning authority of—
  - (i) an application for multi-stage consent; or
  - (ii) a review in respect of an application for multi-stage consent under section 43A(8) (right to require review of planning decisions and failure to take such decisions); and
- (b) by the Scottish Ministers of—
  - (i) an application for multi-stage consent referred to them under section 46 (call-in of applications by the Scottish Ministers); or
  - (ii) an appeal in respect of an application for multi-stage consent under section 47 (right to appeal against planning decisions and failure to take such decisions),

where an EIA report has previously been submitted by the developer in relation to the development.

(2) Where this regulation applies—

- (a) if it appears to the planning authority or Scottish Ministers, as the case may be, that the development, or the part of the development to which the application for multi-stage consent relates may have significant effects on the environment that have not previously been identified and assessed; and
- (b) the developer has not submitted additional information in respect of those effects together with the application for multi-stage consent,

the planning authority or the Scottish Ministers, as the case may be, must seek supplementary information from the developer in accordance with regulation 26(2) in respect of such effects.

**Application for multi-stage consent without EIA report**

34.—(1) This regulation applies in relation to the consideration by the planning authority of—

- (a) an application for multi-stage consent; or
- (b) a review in respect of an application for multi-stage consent under section 43A(8) (right to require review of planning decisions and failure to take such decisions),

where an EIA report has not been submitted by the developer in relation to the development.

(2) Where this regulation applies and either—

- (a) it appears to the planning authority that the application for multi-stage consent relates to planning permission for Schedule 1 development and the development has not been the subject of a screening opinion or screening direction; or
- (b) it appears to the planning authority that—
  - (i) the application for multi-stage consent relates to planning permission for Schedule 2 development; and
  - (ii) the development may have significant effects on the environment that have not previously been identified (whether in an earlier screening opinion or screening direction or because the development has not been the subject of a screening opinion or screening direction),

the planning authority must adopt a screening opinion in respect of the development.

(3) If it appears to the planning authority that the application for multi-stage consent, or review, relates to planning permission for Schedule 2 development but the planning authority do not consider that the information submitted by the developer in connection with the application, or review, includes all the information referred to in regulation 8(2), the planning authority must seek from the developer such information as they consider remains to be provided by giving notice to the developer describing that information.

(4) The provisions of regulation 9(1) to (6) apply in relation to the adoption of a screening opinion under paragraph (2) as they apply following a request made under regulation 8(1) as if—

- (a) the making of the application for multi-stage consent were a request made under regulation 8(1); and
- (b) references to date of receipt of the request were references to the relevant date.

(5) A screening opinion adopted under paragraph (2) supersedes the terms of an earlier screening opinion or screening direction.

(6) The Scottish Ministers may make a screening direction in relation to the development to which the application for multi-stage consent relates and any such screening direction supersedes the terms of the earlier screening opinion or screening direction.

(7) Where a screening opinion is adopted, or a screening direction made, to the effect that the development to which the application for multi-stage consent relates is EIA development—

- (a) where the application is before the planning authority by virtue of a review under section 43A(8), regulation 16 applies as if the application were an EIA application; and
- (b) in other cases, regulation 12 applies as if the application were an EIA application.

(8) For the purposes of paragraph (4) the relevant date is the later of—

- (a) the date on which, as the case may be—
  - (i) the application for multi-stage consent is taken to have been made in terms of regulation 14 of the Development Management Procedure Regulations; or
  - (ii) the request for review is made in respect of the application for multi-stage consent; or

- (b) where notice is given to the developer under paragraph (3), the date on which the last of the items or information sought by such notice is received by the planning authority.

**Application for multi-stage consent referred or appealed to the Scottish Ministers without an EIA report**

**35.**—(1) This regulation applies in relation to the consideration by the Scottish Ministers of—

- (a) an application for multi-stage consent referred to them under section 46 (call-in of applications by the Scottish Ministers); or
- (b) an appeal in respect of an application for multi-stage consent under section 47 (right to appeal against planning decisions and failure to take such decisions),

where an EIA report has not been submitted by the developer in relation to the development.

(2) Where this regulation applies and either—

- (a) it appears to the Scottish Ministers that the application for multi-stage consent relates to planning permission for Schedule 1 development and the development has not been the subject of a screening opinion or screening direction; or
- (b) it appears to the Scottish Ministers that—
  - (i) the application for multi-stage consent relates to planning permission for Schedule 2 development; and
  - (ii) the development may have significant effects on the environment that have not previously been identified (whether in an earlier screening opinion or screening direction or because the development has not been the subject of a screening opinion or screening direction),

the Scottish Ministers must make a screening direction in respect of the development.

(3) If it appears to the Scottish Ministers that the application for multi-stage consent, or appeal, relates to planning permission for Schedule 2 development but the Scottish Ministers do not consider that the information submitted by the developer in connection with the application, or appeal, includes all the information referred to in regulation 8(2), the Scottish Ministers—

- (a) must seek from the developer such information as they consider remains to be provided by giving notice to the developer describing that information; and
- (b) may request the planning authority to provide such information as they can in relation to that information.

(4) The provisions of regulation 10(3)(b) and (4) to (6) apply in relation to the making of a screening direction under paragraph (2) as they apply following a request made under regulation 9(5) as if—

- (a) the making of the application for multi-stage consent were a request made under regulation 9(5); and
- (b) references to date of receipt of the request were references to the relevant date.

(5) A screening direction made under paragraph (2) supersedes the terms of an earlier screening opinion or screening direction.

(6) Where a screening direction made under this regulation to the effect that the development to which the application for multi-stage consent relates is EIA development, the Scottish Ministers must notify the developer in writing that the submission of an EIA report is required and must send a copy of that notification to the planning authority.

(7) A developer who receives a notice under paragraph (6) may within the period of 21 days beginning with the date of the notice write to the Scottish Ministers stating that an EIA report will be provided and may request the Scottish Ministers to make a scoping direction.

(8) If the developer does not write in accordance with paragraph (7), the Scottish Ministers are under no duty to deal with the application, and at the end of the 21 day period the Scottish Ministers must inform the developer in writing that no further action is being taken on the application or appeal, as the case may be.

(9) Where the Scottish Ministers have given a notice under paragraph (6), they are to determine the application by refusing it, or appeal by dismissing it, if the developer does not submit an EIA report.

(10) For the purposes of paragraph (4) the relevant date is the later of—

- (a) the date on which, as the case may be—
  - (i) the application for multi-stage consent is referred to the Scottish Ministers under section 46; or
  - (ii) the appeal is made in respect of the application for multi-stage consent under section 47; or
- (b) where notice is given to the developer under paragraph (3), the date on which the last of the items or information sought by such notice is received by the Scottish Ministers.

#### **Modification of regulations relating to application for multi-stage consent**

**36.**—(1) Parts 2, 4 to 7, 10 and 11 and regulations 12 and 16 (where applied by regulation 34(7)), apply to an application for multi-stage consent as if—

- (a) references to an application for planning permission were references to an application for multi-stage consent;
- (b) references to an EIA application were references to an application for multi-stage consent for EIA development;
- (c) in regulation 21(5)(a) after “application” there were inserted “(and any earlier application relating to the development, in so far as not already on Part 1 of the register)”;
- (d) in regulation 41(5)(b) the reference to “planning permission” were a reference to “multi-stage consent”; and
- (e) where the application for multi-stage consent relates to planning permission granted by the adoption or approval of a simplified planning scheme or by an enterprise zone scheme, the reference in schedule 5 to the relevant planning permission is to be read as a reference to the simplified planning zone scheme or enterprise zone scheme, as the case may be.

(2) Regulation 29(2)(d), (e) and (g) applies in respect of the notification of a decision on an application for multi-stage consent only where additional information has been provided by the developer in connection with that application.