
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 113

**The Forestry (Environmental Impact
Assessment) (Scotland) Regulations 2017**

PART 3

PREPARATION OF ENVIRONMENTAL IMPACT ASSESSMENT REPORTS

Requests for scoping opinions of the Commissioners

15.—(1) An applicant may request the Commissioners to adopt a scoping opinion.

(2) A request under paragraph (1) must include—

- (a) a plan sufficient to identify the land;
- (b) a brief description of the nature and purpose of the forestry project and its likely effects on the environment; and
- (c) such other information or representations as the applicant making the request may wish to provide or make.

(3) If the Commissioners consider that they have not been provided with sufficient information to adopt a scoping opinion, they must, within the period of 28 days beginning with the date of receipt of the request under paragraph (1), notify the applicant of the points on which they require further information.

(4) The Commissioners must not adopt a scoping opinion in response to a request under paragraph (1) until they have consulted—

- (a) the applicant; and
- (b) the consultation bodies.

(5) Before adopting a scoping opinion, the Commissioners must take into account—

- (a) the specific characteristics of the particular forestry project;
- (b) the specific characteristics of forestry projects of the type concerned; and
- (c) the environmental features likely to be affected by the forestry project.

(6) Subject to paragraph (7), the Commissioners must within the period of 35 days beginning with the date of receipt of a request under paragraph (1) or such longer period as may be agreed in writing with the applicant, adopt a scoping opinion and send a copy to the applicant.

(7) Where—

- (a) an applicant has, at the same time as making a request for a screening opinion under regulation 12(1), made a request for an opinion under paragraph (1); and
- (b) the Commissioners have adopted a screening opinion to the effect that the forestry project is an EIA forestry project,

the Commissioners must within the period of 35 days beginning with the date on which that screening opinion was adopted or such longer period as may be agreed in writing with the applicant, adopt a scoping opinion and send a copy to the applicant.

(8) Where the Commissioners fail to adopt a scoping opinion within the relevant period mentioned in paragraph (6) or (7), the person who requested the opinion may request the Scottish Ministers to make a scoping direction.

(9) Paragraph (8) applies even if the Commissioners have not received the information which they have sought under paragraph (3).

(10) Where a request has been made to the Commissioners under regulation 12(1) to adopt a screening opinion but no request has been made under paragraph (1), the Commissioners may of their own volition adopt a scoping opinion and paragraphs (3) to (6) and (11) apply in relation to such a scoping opinion as if a request had been made under paragraph (1) on the date on which the Commissioners adopt the screening opinion.

(11) Where the Commissioners have adopted a scoping opinion, in response to a request under paragraph (1), neither they nor the Scottish Ministers are precluded from requiring the applicant to submit additional information in connection with any EIA report that may be submitted by the applicant pursuant to an EIA application relating to the same forestry project.

(12) A later scoping opinion supersedes the terms of an earlier scoping opinion.

Requests for scoping directions by the Scottish Ministers

16.—(1) The Scottish Ministers may make a scoping direction under this regulation either—

- (a) of their own volition; or
- (b) where requested to do so pursuant to regulation 15(8).

(2) A request made pursuant to regulation 15(8) must include—

- (a) a copy of the relevant request to the Commissioners under regulation 15(1);
- (b) a copy of any relevant notification under regulation 15(3) and of any response;
- (c) a copy of any relevant screening opinion received by the applicant and of any accompanying statement of reasons; and
- (d) any representations that the applicant wishes to make.

(3) When an applicant makes a request pursuant to regulation 15(8), that applicant must send to the Commissioners a copy of that request, but that copy need not include the matters mentioned in paragraph (2)(a) to (c).

(4) The Scottish Ministers must notify the applicant in writing of any points on which they consider the information provided is insufficient to enable them to make a scoping direction and may request the Commissioners to provide such information as they can on any of those points.

(5) Before making a scoping direction the Scottish Ministers must—

- (a) consult—
 - (i) the applicant who made the request; and
 - (ii) the consultation bodies; and

(b) take into account the matters specified in regulation 15(5).

(6) The Scottish Ministers must, within the period of 35 days beginning with the date of receipt of that request or such longer period as they may reasonably require, make a scoping direction and send a copy to the person who made the request and to the Commissioners.

(7) Where the Scottish Ministers have made a scoping direction in response to a request under regulation 15(8), neither they nor the Commissioners are precluded from requiring the applicant

to submit additional information in connection with any EIA report that may be submitted by that applicant pursuant to an EIA application relating to the same forestry project.

(8) A scoping direction supersedes the terms of an earlier scoping opinion or scoping direction.

Procedure to facilitate preparation of EIA reports

17.—(1) An applicant who intends to submit an EIA report to the Commissioners in connection with an application for EIA consent under these Regulations may give notice of that intention, in writing, to Commissioners under this paragraph.

(2) A notice under paragraph (1) must include the information necessary to identify the land and the nature and purpose of the forestry project, and must indicate the main environmental consequences to which the applicant proposes to refer in the EIA report.

(3) Where the Commissioners receive notice under paragraph (1) from an applicant, they must—

- (a) notify the consultation bodies in writing of the name and address of the applicant and of the duty imposed on those bodies by paragraph (4) to make information available to the applicant; and
- (b) inform the applicant in writing of the names and addresses of the bodies so notified.

(4) Subject to paragraphs (5) and (6), the Commissioners and any body notified in accordance with paragraph (3) must, if requested by the applicant, enter into consultation with the applicant to determine whether the Commissioners or the body have in their possession any information which the applicant or the Commissioners or the body consider relevant to the preparation of the EIA report, and the Commissioners or the body must make any such information available to the applicant.

(5) Paragraph (4) does not require disclosure of information which the Commissioners or any body notified in accordance with paragraph (3)—

- (a) may refuse to disclose under regulation 10(1) of the Environmental Information (Scotland) Regulations 2004⁽¹⁾; or
- (b) are prevented from disclosing by regulation 11(2) of those Regulations.

(6) Paragraph (4) does not require disclosure of information which the Commissioners or any body notified in accordance with paragraph (3)—

- (a) may refuse to disclose under regulation 12(1) of the Environmental Information Regulations 2004⁽²⁾; or
- (b) are prevented from disclosing by regulation 13(1) of those Regulations.

(7) A reasonable charge reflecting the cost of making the relevant information available may be made by the Commissioners or any body notified in accordance with paragraph (3) when making information available in accordance with paragraph (4).

(1) S.S.I. 2004/520, as amended by S.S.I. 2013/127.

(2) S.I. 2004/3391.