
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 115

The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017

PART 4

PREPARATION OF ENVIRONMENTAL IMPACT ASSESSMENT REPORTS

Request for scoping opinions

14.—(1) An applicant may request the Scottish Ministers to adopt a scoping opinion.

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

- (a) a description of the location of the works, including a plan sufficient to identify the area in which the works are proposed to be sited;
- (b) a brief description of the nature and purpose of the works and their likely impact on the environment; and
- (c) such other information or representations as the applicant may wish to provide or make.

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

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

- (a) the consultation bodies; and
- (b) any other public body which the Scottish Ministers consider is likely to have an interest in the proposed works by reason of that body's specific environmental responsibilities or local and regional competencies.

(5) The consultation period under paragraph (4) is either—

- (a) 30 days beginning with the date on which the Scottish Ministers contact the bodies referred to in paragraph (4) by virtue of that paragraph; or
- (b) where the Scottish Ministers and any such body have agreed a longer period, such longer period.

(6) The Scottish Ministers, when adopting a scoping opinion, must take into account—

- (a) the information provided by the applicant, in particular information in respect of the specific characteristics of the works, including their location and technical capacity, and their likely impact on the environment; and
- (b) any representations made to them in response to consultation undertaken in accordance with paragraph (4).

(7) The Scottish Ministers must, within the period of 5 weeks beginning with the date by which any body consulted under paragraph (4) is required to make representations, or within such longer period as the Scottish Ministers require, adopt a scoping opinion and send a copy to the applicant.

(8) The adoption of a scoping opinion by the Scottish Ministers does not preclude the Scottish Ministers from requiring of the applicant information in connection with any report that may be submitted by that person as an EIA report in connection with an application for a regulatory approval for the same works as referred to in the scoping opinion.

(9) Where the applicant has, at the same time as making a request for a screening opinion under regulation 10(1), made a request under paragraph (1), and the Scottish Ministers have adopted a screening opinion to the effect that the works are an EIA project, the Scottish Ministers must begin the procedures relating to scoping on the date on which they give the screening opinion.

(10) The Scottish Ministers may at their own volition adopt a scoping opinion and paragraphs (4), (5), (6), (7) and (8) apply in relation to the adoption of such a scoping opinion as they apply where a request is made under paragraph (1).

Procedure to facilitate preparation of EIA reports

15.—(1) An applicant who intends to submit an EIA report to the Scottish Ministers under these Regulations may give notice of that intention, in writing, to the Scottish Ministers under this paragraph.

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

(3) Where the Scottish Ministers receive notice under paragraph (1), or a written statement made by virtue of regulation 13(4), they must—

(a) notify the consultation bodies and any other public body which the Scottish Ministers consider is likely to have an interest in the proposed works by reason of that body's specific environmental responsibilities or local and regional competencies, in writing, of—

(i) the name and address of the applicant; and

(ii) the duty imposed on those bodies by paragraph (4) to make information available to that person; and

(b) inform the applicant, in writing, of the names and addresses of the bodies so notified.

(4) Subject to paragraphs (5) and (6), any body notified in accordance with paragraph (3) must, if requested by the applicant—

(a) enter into consultation with the applicant to determine whether the body has in its possession any information which that body or the applicant considers to be relevant to the preparation of the EIA report; and

(b) if the body has any such information, the body must make that information available to the applicant.

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

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

- (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 Scottish Ministers or any body notified in accordance with paragraph (3) when making information available in accordance with paragraph (4).

(2) [S.I. 2004/3391](#), as relevantly amended by [S.I. 2015/1897](#).