
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 74

The Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Amendment Rules 2017

Amendment of schedule 5

18. In schedule 5 (proposals for orders by virtue of section 6)—

(a) in paragraph 5—

- (i) for “rule 5(7)” substitute “rule 5(11)”; and
- (ii) for “rule 5(4)” substitute “rule 5(6)”; and

(b) for paragraph 6 substitute—

“6. Any body falling within rule 5(11) consulted pursuant to paragraph 5 must, not later than 28 days after being consulted, provide the Scottish Ministers with a written opinion as to whether or not, in their opinion, the works in question should be the subject of an environmental impact assessment.”;

(c) for paragraph 7 substitute—

“7. In reaching a determination as to whether an environmental impact assessment is necessary, the Scottish Ministers must take into account—

- (a) such of the selection criteria set out in Annex III to the Directive as are relevant to the proposed works; and
- (b) the available results of other assessments of the proposed works.”;

(d) for paragraph 8 substitute—

“8.—(1) Where the Scottish Ministers make a determination pursuant to paragraph 3—

- (a) that determination must be accompanied by a written statement giving, with reference to such of the criteria set out in Annex III to the Directive as are relevant to the proposed works, the main reasons for that conclusion; and
- (b) where the determination is to the effect that the proposed works do not require an environmental impact assessment, the statement referred to in paragraph (a) must state any features of the proposed works or proposed measures which are envisaged to avoid or prevent significant adverse effects on the environment.

(2) The Scottish Ministers must publish any determination referred to in paragraph (1) within 14 days of such a determination being reached—

- (a) in the Edinburgh Gazette;
- (b) in such other newspapers as they consider appropriate; and
- (c) on a website maintained by the Scottish Ministers for the purpose of making publicly available information relating to applications to which these Rules apply.”;

(e) in paragraphs 9 and 10 for “environmental statement” substitute “EIA report”;

(f) after paragraph 11 insert—

“**11A.** Where the Scottish Ministers have determined that an environmental impact assessment is necessary, in addition to the matters referred to in paragraph 11 the notice referred to in that paragraph must—

- (a) where relevant, state that the proposed works are likely to have significant effects on the environment in another EEA State;
 - (b) state that the EIA report is available for inspection free of charge and the times and places (including the Scottish Parliament Information Centre) at which, and the means by which, the report is available for inspection;
 - (c) state how copies of the EIA report may be obtained;
 - (d) state the cost of a copy of the EIA report;
 - (e) provide details of the arrangements for public participation in the decision making procedure and the circumstances under the Act in which the Scottish Ministers may cause a public local inquiry or hearing to be held into the proposal; and
 - (f) state the nature of possible decisions to be taken in relation to the proposal.”;
- (g) in paragraph 12(a) after “11” insert “and, where relevant, paragraph 11A”;
- (h) after paragraph 12 insert—

“**12A.** Where the Scottish Ministers have determined that an environmental impact assessment is necessary they must publish a notice containing the information specified in paragraphs 11, 11A and 12 on a website maintained by the Scottish Ministers for the purpose of making publicly available information relating to applications to which these Rules apply.”

- (i) in paragraph 16 for sub-paragraph (f) substitute—

“(f) where the proposed works are to be subject to an environmental impact assessment, an EIA report which must include the information referred to in rule 9, confirmation that a draft of the EIA report has been sent to the persons and bodies specified in rule 3(3)(b) and (4) and a memorandum setting out any comments those persons might have made in respect of the draft;”;

- (j) for paragraph 19 substitute—

“**19.** Where the Scottish Ministers have determined that an environmental impact assessment is necessary the Scottish Ministers must serve a copy of the documents referred to in paragraph 16 upon—

- (a) the consultation bodies; and
 - (b) any other public body which the Scottish Ministers consider is likely to have an interest in the proposal to make an order under section 6 of the Act by reason of that body’s specific environmental responsibilities or local and regional competencies.”;
- (k) in paragraph 20 for “or 18” substitute “, 18 or 19”;
- (l) in paragraph 21 after “information specified in” insert “paragraph 11A, where relevant, and”;
- (m) in paragraph 30(2)(d) omit “environmental statement” and substitute “EIA report”;
- (n) in paragraph 31—
- (i) in sub-paragraphs (1) and (2) for “environmental statement”, wherever it occurs, substitute “EIA report”;
 - (ii) in sub-paragraph (1)—

- (aa) omit “and” immediately after paragraph (b); and
- (bb) at the end insert—
 - “; and
 - (d) publish the notice referred to in sub-paragraph (a) on the website referred to in paragraph 12A”; and
- (iii) in sub-paragraphs (2) and (3) omit the word “may” wherever it occurs and substitute “must”;
- (o) in paragraph 35(2) for “environmental statement” substitute “EIA report”; and
- (p) for paragraph 41 substitute—
 - “**41.** Rule 4 has effect in relation to any proposal of the Scottish Ministers to make an order under section 6 of the Act.”.