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SCOTTISH STATUTORY INSTRUMENTS

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**2017 No. 74**

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

**Substitution of rule 6**

7. For rule 6 (scoping opinion) substitute—

“6.—(1) Before submitting an application in relation to works for which an environmental impact assessment is or may be required, the applicant may make a request in writing to ask the Scottish Ministers for an opinion as to the information to be provided in the EIA report (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 proposed works and of their possible effects on the environment; and
- (c) such other information or representations as the person making the request may wish to provide or make.

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

(4) The Scottish Ministers must not give 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) Where any body consulted under paragraph (4) wishes to provide the Scottish Ministers with a written opinion as to the information to be contained in the EIA report, that body must do so no later than 28 days after being consulted.

(6) Before giving a scoping opinion the Scottish Ministers must take into account—

- (a) the specific characteristics of the proposed works;
- (b) the specific characteristics of works of the type concerned;
- (c) the environmental features likely to be affected by the works; and
- (d) any representations made to them in response to consultation undertaken under paragraph (4).

(7) Subject to paragraph (8), the Scottish Ministers must notify the applicant who made the request under paragraph (1) of the Scottish Ministers’ scoping opinion, not later than 42 days after the receipt of that request or, where the Scottish Ministers have given a

notification under paragraph (3), 42 days after receipt of the further information mentioned in that notification.

- (8) Where an applicant makes a request for a scoping opinion—
- (a) under paragraph (1) at the same time as the making of a request for a screening decision under rule 5(4) in relation to the same proposed works; or
  - (b) after the applicant has made such a request for a screening decision but before the Scottish Ministers have notified the applicant of that decision in relation to the same proposed works,

the Scottish Ministers must notify the applicant, in writing, of the Scottish Ministers' scoping opinion not later than 42 days after the date on which the Scottish Ministers notify the applicant of their screening decision to the effect that the works are an EIA application.

(9) Where the Scottish Ministers have given a scoping opinion to an applicant, they are not precluded from requiring that applicant to provide further information in connection with any EIA report that may be submitted by that applicant in connection with an application relating to the same, or substantially the same, works as were referred to in that scoping opinion.

(10) The Scottish Ministers may of their own volition give a scoping opinion and paragraphs (4) to (9) apply in relation to such a scoping opinion as they apply where a request is made under paragraph (1).

- (11) The Scottish Ministers must publish notice of a scoping opinion—
- (a) in the Edinburgh Gazette;
  - (b) in such other newspapers as they consider appropriate; and
  - (c) on the website referred to in rule 5(17)(c)."