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SCOTTISH STATUTORY INSTRUMENTS

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**2019 No. 80**

**The Town and Country Planning and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019**

**Amendment of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017**

5.—(1) The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017<sup>M1</sup> are amended as follows.

(2) In regulation 2(1) (interpretation)—

- (a) at the end of the definition of “the CCS Directive” insert “, as Directive 2009/31/EC had effect immediately before [<sup>F1</sup>IP completion day] ”,
- (b) at the end of the definition of “the Directive” insert “, as it had effect immediately before [<sup>F2</sup>IP completion day] ”,
- (c) after the definition of “site of special scientific interest” insert “ and ”,
- (d) omit the definition of “Union legislation” and “and” immediately preceding it.

(3) In regulation 4(3)(b) (environmental impact assessment), after “under” insert “ any law that implemented ”.

(4) In regulation 6(6) (EIA Development), for “, in accordance with Article 2(4) of the Directive (but without prejudice to Article 7 of the Directive),” substitute “ in exceptional cases ”.

(5) In regulation 21(2)(b) (publication of EIA report), for “another” substitute “ an ”.

(6) In regulation 30(2)(b) (monitoring measures), for “Union legislation” substitute “ retained EU law ”.

(7) In regulation 41 (development in Scotland likely to have significant effects in an EEA State other than the United Kingdom)—

- (a) in the heading, omit “other than the United Kingdom”,
- (b) in paragraphs (1)(a) and (1)(b), in each place it appears, omit “other than the United Kingdom”,
- (c) in paragraph (3)(a), for “another” substitute “ an ”,
- (d) in paragraph (5)(a) for “in accordance with Article 6(1) of the Directive and” substitute “ by the EEA State as authorities to be consulted and to ”,
- (e) in paragraph (6)—
  - (i) omit “in accordance with Article 7(4) of the Directive”,
  - (ii) in sub-paragraph (b) omit “other”.

(8) In regulation 42 (projects in another EEA State likely to have significant transboundary effects)—

- (a) in the heading, for “another” substitute “ an ”,
- (b) in paragraph (1)—
  - (i) omit “other than the United Kingdom pursuant to Article 7(2) of the Directive”,

- (ii) omit “, in accordance with Article 7(4) of the Directive”,
- (iii) in sub-paragraph (b), from “to the competent authority” to the end substitute “ representations to the competent authority in that EEA State ”.

(9) In regulation 51 (access to review procedure before a court), at the end insert “(and for such purpose Article 11(1)(b) is to be read as if the reference to “ a Member State ” were a reference to “Scotland”).”.

(10) In regulation 60 (revocations and transitional provisions)—

- (a) in paragraph (2), omit “as they did immediately before 16 May 2017”,
- (b) in paragraph (6) at the end insert “, subject to the modifications specified in paragraph (6A) ”,
- (c) after paragraph (6) insert—

“(6A) The 2011 regulations are to be read as if—

- (a) in regulation 2(1) (interpretation)—
  - (i) at the end of the definition of “the CCS Directive” the words “, as Directive 2009/31/EC had effect immediately before [F<sup>3</sup>IP completion day] ” were inserted,
  - (ii) at the end of the definition of “the Directive” the words “, as it had effect immediately before [F<sup>4</sup>IP completion day] ” were inserted,
- (b) in regulation 5(4) (general provisions relating to screening), for “, in accordance with Article 2(4) of the Directive (but without prejudice to Article 7 of the Directive),” there were substituted “ in exceptional cases ”,
- (c) in regulation 36 (development in Scotland likely to have significant effects in an EEA other than the United Kingdom)—
  - (i) in the heading, the words “other than the United Kingdom” were omitted,
  - (ii) in paragraphs (1)(a) and (b), the words “other than the United Kingdom” were omitted,
  - (iii) in paragraph (2)(a), for “another” there were substituted “ an ”,
  - (iv) in paragraph (4)(a), for the words “referred to in Article 6(1) of the Directive and” there were substituted “ designated by the EEA State as authorities to be consulted and to ”,
  - (v) in paragraph (5)—
    - (aa) the words “in accordance with Article 7(4) of the Directive” were omitted,
    - (bb) in sub-paragraph (b) the word “other” were omitted,
- (d) in regulation 37 (projects in another EEA State likely to have significant transboundary effects)—
  - (i) in the heading, for “another” there were substituted “ an ”,
  - (ii) in paragraph (1)—
    - (aa) the words “other than the United Kingdom pursuant to Article 7(2) of the Directive” were omitted,
    - (bb) the words “, in accordance with Article 7(4) of the Directive” were omitted,

- (cc) in sub-paragraph (b), from “to the competent authority” to the end substitute “representations to the competent authority in that EEA State”;
  - (e) in regulation 46 (access to review procedure before a court), [F3 at the end] there were inserted “(and for such purpose Article 11(1)(b) is to be read as if the reference to “a Member State” were a reference to “Scotland”).”;
  - (f) in schedule 1 (descriptions of development for the purposes of the definition of “Schedule 1 development”)—
    - (i) in paragraph 21, after “pursuant to” there were inserted “Chapter 3 of Part 1 of the Energy Act 2008 M2 and any law of any part of the United Kingdom that implemented”;
    - (ii) in paragraph 22, for “pursuant to the CCS Directive” there were substituted “(pursuant to Chapter 3 of Part 1 of the Energy Act 2008 and any law of any part of the United Kingdom that implemented the CCS Directive)”;
  - (g) in schedule 2 (descriptions of development and applicable thresholds and criteria for the purposes of the definition of “Schedule 2 development”), in item 3(j) in column 1 of the table, for “pursuant to the CCS Directive” there were substituted “(pursuant to Chapter 3 of Part 1 of the Energy Act 2008 and any law of any part of the United Kingdom that implemented the CCS Directive)”;
  - (h) in schedule 3 (selection criteria for screening schedule 2 development)—
    - (i) paragraph 2(c)(v) were read as if the references to “Member States” were references to “Scotland”;
    - (ii) in paragraph 2(c)(vi) for “Community legislation” there were substituted “retained EU law”.
- (11) In schedule 1 (descriptions of development for the purposes of the definition of “schedule 1 development”)—
- (a) in paragraph 9—
    - (i) after “certain Directives” insert “, as that Directive had effect immediately before [F4IP completion day]”,
    - (ii) after “of that Directive” insert “, as it had effect immediately before [F5IP completion day]”;
  - (b) in paragraph 10 after Directive 2008/98/EC” insert “, as that Directive had effect immediately before [F6IP completion day]”,
  - (c) in paragraph 13 after “urban waste-water treatment” insert “, as that Directive had effect immediately before [F7IP completion day]”;
  - (d) in paragraph 22 after “pursuant to” insert “Chapter 3 of Part 1 of the Energy Act 2008 and any law of any part of the United Kingdom that implemented”;
  - (e) in paragraph 23 for “pursuant to the CCS Directive” insert “(pursuant to Chapter 3 of Part 1 of the Energy Act 2008 and any law of any part of the United Kingdom that implemented the CCS Directive)”.
- (12) In schedule 2 (descriptions of development and applicable thresholds and criteria for the purposes of the definition of “schedule 2 development”), in item 3(k) in column 1 of the table, for “pursuant to the CCS Directive” insert “(pursuant to Chapter 3 of Part 1 of the Energy Act 2008 and any law of any part of the United Kingdom that implemented the CCS Directive)”.
- (13) In schedule 3 (selection criteria for screening schedule 2 development), in paragraph 2(c)(vi), for “Union legislation” substitute “retained EU law”.

- (14) In schedule 4 (information for inclusion in environmental impact assessment reports)—
- (a) in paragraph 5—
- (i) for “or Member State level” substitute “ level (as they had effect immediately before [F8IP completion day]) or United Kingdom [F9 level ]”,
- (ii) after “those established under” insert “ the law of any part of the United Kingdom that implemented ”.
- (b) in paragraph 8—
- (i) for “legislation of the European Union such as” substitute “ retained EU law such as any law that implemented ”,
- (ii) after “requirements of” insert “ any law that implemented ”.

#### Textual Amendments

- F1** Words in reg. 5(2)(a) substituted (31.12.2020 immediately before IP completion day) by *The Town and Country Planning, Management of Extractive Waste and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2020 (S.S.I. 2020/310)*, regs. 1, **2(6)**
- F2** Words in reg. 5(2)(b) substituted (31.12.2020 immediately before IP completion day) by *The Town and Country Planning, Management of Extractive Waste and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2020 (S.S.I. 2020/310)*, regs. 1, **2(6)**
- F3** Words in reg. 5(10)(c) substituted (31.12.2020) by *The Town and Country Planning and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Amendment Regulations 2019 (S.S.I. 2019/274)*, regs. 1, **2(3)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in reg. 5(10)(c) substituted (31.12.2020 immediately before IP completion day) by *The Town and Country Planning, Management of Extractive Waste and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2020 (S.S.I. 2020/310)*, regs. 1, **2(6)**
- F5** Words in reg. 5(11)(a) substituted (31.12.2020 immediately before IP completion day) by *The Town and Country Planning, Management of Extractive Waste and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2020 (S.S.I. 2020/310)*, regs. 1, **2(6)**
- F6** Words in reg. 5(11)(b) substituted (31.12.2020 immediately before IP completion day) by *The Town and Country Planning, Management of Extractive Waste and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2020 (S.S.I. 2020/310)*, regs. 1, **2(6)**
- F7** Words in reg. 5(11)(c) substituted (31.12.2020 immediately before IP completion day) by *The Town and Country Planning, Management of Extractive Waste and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2020 (S.S.I. 2020/310)*, regs. 1, **2(6)**
- F8** Words in reg. 5(14)(a) substituted (31.12.2020 immediately before IP completion day) by *The Town and Country Planning, Management of Extractive Waste and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2020 (S.S.I. 2020/310)*, regs. 1, **2(6)**
- F9** Word in reg. 5(14)(a)(i) inserted (31.12.2020) by *The Town and Country Planning and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Amendment Regulations 2019 (S.S.I. 2019/274)*, regs. 1, **2(3)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Commencement Information

- I1** Reg. 5 in force at 31.12.2020 on IP completion day, see reg. 1 (as amended by *S.S.I. 2020/310*, regs. 1, 2(2))

#### Marginal Citations

- M1** *S.S.I. 2017/102* as amended by *S.S.I. 2017/168*.
- M2** 2008 c.32.

**Changes to legislation:**

There are currently no known outstanding effects for the The Town and Country Planning and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019, Section 5.