
SCOTTISH STATUTORY INSTRUMENTS

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(1) 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 exit day”,
- (b) at the end of the definition of “the Directive” insert “, as it had effect immediately before exit 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 exit day” were inserted,
 - (ii) at the end of the definition of “the Directive” the words “, as it had effect immediately before exit 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), after “Directive” 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(2) 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 exit day.”,
 - (ii) after “of that Directive” insert “, as it had effect immediately before exit day”,
 - (b) in paragraph 10 after [Directive 2008/98/EC](#)” insert “, as that Directive had effect immediately before exit day.”,
 - (c) in paragraph 13 after “urban waste-water treatment” insert “, as that Directive had effect immediately before exit 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 exit day) or United Kingdom”,

(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”.