
STATUTORY INSTRUMENTS

1988 No. 1221

The Environmental Assessment (Scotland) Regulations 1988

PART II

PLANNING

Application

- 3.** This Part of these Regulations applies in any case where—
- (a) an application for planning permission was received by a planning authority on or after 15th July 1988; or
 - (b) the notices and consultation of a planning authority under regulation 4(2) of the Town and Country Planning (Development by Planning Authorities) (Scotland) Regulations 1981⁽¹⁾ were given and carried out respectively, or the application of a planning authority was made, on or after 15th July 1988.

Interpretation

- 4.—(1)** In this Part of these Regulations, unless the contrary intention appears—
- “the Act” means the Town and Country Planning (Scotland) Act 1972⁽²⁾ and expressions used in these Regulations which are also used in the Act have the same meaning as they have in the Act;
- “the 1981 Regulations” means the Town and Country Planning (Development by Planning Authorities) (Scotland) Regulations 1981;
- “annex 1 application” or “annex 2 application” means an application for planning permission (other than an application made under section 28A or section 29⁽³⁾) for the carrying out of development of any description mentioned in Schedule 1 or Schedule 2 respectively, not being exempt development;
- “controlled waste” has the meaning assigned to it by section 30(1) of the Control of Pollution Act 1974⁽⁴⁾;
- “regional planning authority” means the council of a Region other than the Highland Region, the Borders Region and the Dumfries and Galloway Region;
- “register” means a register of applications for planning permission kept by the planning authority under section 31(2) in the manner prescribed in article 17(1) of the general development order;

(1) 1981/829, as amended by S.I.1984/238

(2) 1972 c. 52

(3) Section 28A was added by the Housing and Planning Act 1986 (c. 63), Schedule 11, paragraph 31; section 29 was amended by the Local Government and Planning (Scotland) Act 1982 (c. 43), Schedule 2, paragraph 6 and by the Housing and Planning Act 1986, Schedule 12.

(4) 1974 c. 40

“reporter” means a person appointed by the Secretary of State under Schedule 7 to the Act to determine an appeal under section 33, or to report to the Secretary of State on an application for planning permission referred to the Secretary of State under section 32 or which is the subject of an appeal under section 33;

“special road” means a special road authorised by means of a scheme (other than a scheme made by the Secretary of State) under section 7 of the Roads (Scotland) Act 1984⁽⁵⁾ for the use of traffic falling within Classes I and II in Schedule 3 to that Act;

“special waste” means waste which is special waste for the purposes of the Control of Pollution (Special Waste) Regulations 1980⁽⁶⁾;

references to receipt by a planning authority of applications for planning permission are to be construed as references to receipt as specified in article 10(6) of the general development order; and

references to sections are references to sections of the Act, and references to Schedules are references to Schedules to these Regulations.

(2) Where the Secretary of State gives a direction which includes a statement that in his opinion proposed development would be likely, or would not be likely, to have significant effects on the environment by virtue inter alia of its nature, size or location or includes such a statement in a notification under regulation 13(2), that statement shall determine whether an application for planning permission for that development is, or is not, an annex 2 application falling within the terms of regulation 6(1)(b) by reason of the effects the development would be likely to have, and references in these Regulations to an application to which regulation 6 applies shall be interpreted accordingly.

Extension of the power to provide in a development order for the giving of directions as respects the manner in which planning applications are dealt with

5. The provisions enabling the Secretary of State to give directions which may be included in a development order by virtue of section 28 shall include provisions enabling him to direct—

- (a) that particular proposed development of a description set out in Schedule 1 or 2 is exempt development to which these Regulations do not apply;
- (b) that particular proposed development is not development in respect of which consideration of environmental information is required before planning permission can be granted;
- (c) that particular proposed development or development of any class is development in respect of which consideration of environmental information is so required.

Prohibition on the grant of planning permission without consideration of environmental information

6.—(1) This regulation applies to—

- (a) an annex 1 application; or
- (b) an annex 2 application where the proposed development shall be likely to have significant effects on the environment by virtue inter alia of its nature, size or location.

(2) The planning authority, the Secretary of State or a reporter shall not grant planning permission in respect of an application to which this regulation applies unless they have taken into consideration environmental information in respect of the proposed development.

(3) Subject to any direction by the Secretary of State, for the purposes of paragraph (1)(b) a proposed development shall only be taken to be likely to have significant effects on the environment

(5) 1984 c. 54

(6) S.I. 1980/1709

by virtue inter alia of its nature, size or location where the applicant and the planning authority accept that this is the case.

Opinions, directions, etc.

Opinion of planning authority prior to planning application

7.—(1) An applicant may, before applying for planning permission, request in writing the planning authority’s opinion on—

- (a) whether the proposed development would fall within any of the descriptions mentioned in Schedule 1; or
 - (b) whether the proposed development would fall within any of the descriptions mentioned in Schedule 2 and, if so, whether it would be likely to have significant effects on the environment.
- (2) A request under paragraph (1) shall be accompanied by—
- (a) a plan sufficient to identify the land on which the proposed development would be carried out; and
 - (b) a brief description of the nature and purpose of the proposed development and of its possible effects on the environment.
- (3) On receipt of any such request—
- (a) the planning authority shall send the applicant an acknowledgement stating the date of receipt;
 - (b) the planning authority shall consult such of the authorities, bodies or persons mentioned in Schedule 4 as they consider appropriate in respect of the request under paragraph (1).

(4) The planning authority shall within 4 weeks, or such longer period as the parties agree in writing, beginning with the date of receipt of a request, give the applicant their written opinion with reasons therefor on the questions raised.

(5) Where the planning authority give an opinion under paragraph (4) that the proposed development would fall within any of the descriptions of development mentioned in Schedule 1 or Schedule 2 and would be likely to have significant effects on the environment, they shall let the applicant know which, if any, of the authorities, bodies or persons mentioned in Schedule 4 they consulted under paragraph (3)(b).

(6) Where the planning authority consider that the applicant has not provided them with sufficient information to enable them to form an opinion, they may ask him for further information.

(7) At the same time as they give the applicant their written opinion, the planning authority shall send a copy of that opinion to such other persons as they consider desirable together with documents sufficient to identify the land and the proposed development to which the opinion relates.

(8) Where the planning authority do not give the applicant their written opinion within the 4 week period or such longer period as may be agreed between the parties under paragraph (4) above, the applicant shall be entitled to assume that at this stage the planning authority’s opinion is that consideration of environmental information shall not be required.

(9) Where an applicant is notified by the planning authority that in their opinion planning permission could not be granted for the proposed development without consideration of environmental information and the applicant disagrees, he may ask the Secretary of State in accordance with regulation 9 for a direction as to whether consideration of environmental information is required.

(10) The planning authority shall hold copies of their written opinion, together with the request for it and accompanying documents, and shall make them available for inspection by the public at all reasonable hours at the place where Part I of the register is kept until such time, if any, as a copy of that opinion is required by regulation 11 to be placed on Part I of the register.

Provision of information for environmental statement

8.—(1) This regulation applies where—

- (a) (i) the planning authority have given an opinion under regulation 7(4); or
- (ii) the planning authority have received a direction from the Secretary of State under regulation 10 (other than where the direction relates to a determination by the Secretary of State under section 32 or 33);

that the proposed development would fall within any of the descriptions of development mentioned in Schedule 1 or Schedule 2 and would be likely to have significant effects on the environment; or

- (b) under regulation 14(1) the planning authority have notified an applicant for planning permission that the application for planning permission is an application to which regulation 6 applies.

(2) Where this regulation applies, the planning authority shall—

- (a) inform the authorities, bodies and persons mentioned in Schedule 4—
 - (i) of the requirement for an environmental statement;
 - (ii) that they may be required to make available to the applicant, in accordance with regulation 23, any information in their possession which he or they consider relevant to the preparation of the environmental statement; and
- (b) inform the applicant—
 - (i) of what they have done under sub-paragraph (a);
 - (ii) of their view that he should provide an environmental statement;
 - (iii) that the planning authority is a body required under regulation 23 to provide him with any relevant information in their possession; and
 - (iv) that he shall supply the authorities, bodies and persons mentioned in Schedule 4 and the planning authority with such further information about the proposed development as they may request.

Application for direction to the Secretary of State

9.—(1) An application to the Secretary of State under regulation 7(9) for a direction shall be accompanied by—

- (a) the applicant's request to the planning authority for their opinion;
- (b) the documents which accompanied the request and any other information supplied to the planning authority;
- (c) the opinion and the reasons therefor; and
- (d) any representations which the applicant wishes to make.

(2) An application to the Secretary of State under regulation 14(2)(b) for a direction shall be accompanied by—

- (a) the applicant's application for planning permission;
- (b) any document relating to the application for planning permission;

- (c) any opinion and the reasons therefor; and
- (d) any representations which the applicant wishes to make.

(3) On the date on which an application is made to the Secretary of State for a direction under regulation 7(9) or 14(2), the applicant shall send to the planning authority a copy of—

- (a) his letter to the Secretary of State; and
- (b) any representations he has made;

and the planning authority may within 2 weeks beginning with that date make written comments to the Secretary of State on any matter relating to the application.

(4) Where the Secretary of State considers that the documents put before him do not provide him with sufficient information to enable him to give a direction, the applicant and the planning authority shall supply him with such further information as he may request.

(5) If on the expiry of 4 weeks from the receipt by the Secretary of State of the application referred to in paragraph (1) or (2) (or such longer period as the Secretary of State may, during the said 4 weeks or any period so extended, notify in writing to the applicant and the planning authority) the Secretary of State does not issue a direction, he shall be deemed to have directed that consideration of environmental information shall be required.

Procedure following direction

10. Where the Secretary of State makes any direction under section 28 in respect of the need for consideration of environmental information, he shall send a copy of the direction to the applicant, to the planning authority and to such other persons as he considers desirable together with documents sufficient to identify the land and the proposed development to which the direction relates; and where he directs that consideration of environmental information is required or the proposed development is exempt development he shall send them a statement of his reasons therefor.

Availability of directions and opinions for inspection

11.—(1) Where a planning authority place copies of an application for planning permission in Part I of the register, they shall also place in that Part a copy of any direction given by the Secretary of State which is relevant to the question whether consideration of environmental information is required before planning permission can be granted on that application and or any relevant opinion given under regulation 7.

(2) Where any such direction as is mentioned in paragraph (1) is given after a copy of the relevant application has been placed in Part I of the register, a copy of that direction shall also be placed in that Part of the register when it is received by the planning authority.

(3) Where a planning authority notify an applicant under regulation 14 that they consider his application cannot be granted unless they have taken into consideration environmental information in respect of the proposed development, they shall place a copy of that notification in Part I of the register.

(4) Where a direction sent under regulation 10 is received by the planning authority and an application has not been made for planning permission for the development in question, the planning authority shall make a copy of the direction and any other documents sent with it available for public inspection at all reasonable hours at the place where Part I of the register is kept.

Planning applications and environmental information

Consideration of environmental effects

12. In respect of an application for planning permission, the person to whom it would fall to grant planning permission shall on receipt of the application or appeal consider whether it is one to which regulation 6 applies.

Annex 1 or annex 2 application accompanied by environmental statement

13.—(1) Where a planning authority consider that an application is one to which regulation 6 applies and the application is accompanied by an environmental statement, they shall within 4 weeks beginning with the date of receipt of the application notify the applicant in writing of their view and that article 10 of the general development order shall have effect as if there were substituted for the reference to a period of 2 months in paragraph (5) thereof a reference to a period of 4 months.

(2) Where the Secretary of State considers that an application is one to which regulation 6 applies and the application is accompanied by an environmental statement, he shall notify the applicant in writing of his view.

Annex 1 or annex 2 application to planning authority without environmental statement

14.—(1) Subject to paragraph (4), where the planning authority consider that an application for planning permission is an application to which regulation 6 applies, but it is not accompanied by the required environmental statement, they shall within 4 weeks beginning with the date of receipt of the application or such longer period as the parties agree in writing notify the applicant in writing—

- (a) of their view with reasons thereof;
- (b) that in their view without taking into consideration environmental information in respect of the proposed development they may not grant planning permission;
- (c) of their view that he should provide an environmental statement; and
- (d) of any authorities, bodies or persons mentioned in Schedule 4 whom they have consulted.

(2) The applicant may within 4 weeks beginning with the date of notification—

- (a) inform the authority in writing that he will provide the required environmental statement; or
- (b) apply to the Secretary of State in accordance with regulation 9 for a direction as to whether consideration of environmental information is required.

(3) If the applicant takes no action in accordance with paragraph (2) or says that he does not intend to provide the required environmental statement, planning permission shall be deemed to be refused at the end of the period mentioned, but there shall be no appeal to the Secretary of State under section 33.

(4) The preceding paragraphs shall not apply where—

- (a) the Secretary of State has directed that consideration of environmental information is not required before planning permission could be granted for a proposed development; or
- (b) the Secretary of State directs under section 32 that the application for planning permission be referred to him.

Annex 1 or annex 2 application received by Secretary of State without environmental statement

15.—(1) Where the Secretary of State considers that an application which is being determined by him by virtue of section 32 or section 33 is an application to which regulation 6 applies, or a reporter so considers, but it is not accompanied by an environmental statement, the Secretary of State may, within 4 weeks beginning with the date on which he received the application or such longer period as he may reasonably require, direct giving his reasons that consideration of environmental information in respect of the proposed development is required before planning permission could be granted for the proposed development.

- (2) Where the Secretary of State makes a direction under paragraph (1), he shall—
- (a) inform the planning authority and the other authorities mentioned in Schedule 4,—
 - (i) of the requirement for an environmental statement;
 - (ii) that they may be required to make available to the applicant, in accordance with regulation 23, any information in their possession which they or the applicant consider relevant to the preparation of the environmental statement; and
 - (b) inform the applicant or appellant—
 - (i) of what he has done under subparagraph (a),
 - (ii) of his view that the applicant or appellant should provide an environmental statement,
 - (iii) that the planning authority is a body required under regulation 23 to provide the applicant with any relevant information in their possession, and
 - (iv) that he shall supply the authorities, bodies or persons mentioned in Schedule 4 and the planning authority, with such further information about the proposed development as they may request.

(3) The applicant or appellant as the case may be may, within 4 weeks beginning with the date of the direction, notify the Secretary of State in writing that he proposes to provide an environmental statement and, if the Secretary of State is not so notified, he or the reporter shall not make a determination other than by refusal of planning permission and at the end of the said period of 4 weeks may inform the applicant or appellant in writing that no further action is being taken.

(4) Where the Secretary of State is notified under paragraph (3) that an environmental statement is to be provided, he shall inform the planning authority for the area in which the land to which the application relates is situated.

Publicity for environmental statement

16.—(1) In an application to which regulation 6 applies, when the applicant or appellant submits an environmental statement he shall serve on any party who holds a notifiable interest in neighbouring land a notice in the form set out in Schedule 5 (or in a form substantially to the like effect) stating—

- (a) that the environmental statement may be inspected in the office of the planning authority for the period of 4 weeks from the date of the said notice;
- (b) the address at which copies of the environmental statement may be acquired;
- (c) the cost of a copy of the environmental statement; and
- (d) that representations may be made.

(2) The parties holding a notifiable interest in neighbouring land are the owners, lessees and occupiers of the land.

(3) An environmental statement shall not be taken into consideration by a planning authority or the Secretary of State unless it is accompanied by a certificate stating—

- (a) that notices have been served in terms of paragraph (1); or
- (b) that no notification in terms of paragraph (1) is required; or
- (c) that the applicant has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of all the parties holding a notifiable interest in neighbouring land, and either—
 - (i) that the names and addresses of the parties holding a notifiable interest in neighbouring land have not been ascertained and no notice has been served in terms of paragraph (1); or
 - (ii) that notices have been served in terms of paragraph (1)
 - on one or more of the parties holding a notifiable interest in neighbouring land but that the names and addresses of the other parties holding a notifiable interest have not been ascertained.

(4) The certificate under paragraph (3) shall, where appropriate, state the names and addresses of all those parties having a notifiable interest in neighbouring land who have been notified in terms of paragraph (1).

(5) When an environmental statement is submitted, the planning authority or the Secretary of State, as the case may be, shall publish as soon as possible a notice (containing similar information to that required to be included in a notice served in accordance with paragraph (1)) in a newspaper circulating in the locality in which the neighbouring land is situated and in the Edinburgh Gazette.

(6) Where the Planning authority are required to publish a notice in a newspaper in accordance with paragraph (5), the applicant shall pay the cost to be incurred by the planning authority in arranging such advertisement at the time of submitting his environmental statement.

(7) For the purposes of this regulation “neighbouring land” has the same meaning as in article 2(1) of the general development order.

Copies of environmental statement for the public

17. Where an environmental statement is provided in relation to an application for planning permission, the applicant or appellant shall ensure that a reasonable number of copies of the environmental statement are available at the address named in his notices under regulation 16 as the address at which copies may be obtained.

Consultation where environmental statement received by planning authority

18.—(1) Where planning authority receive an environmental statement relating to an application to which regulation 6 applies, they shall—

- (a) place a copy of the environmental statement in Part I of the register together with a copy of the related application;
- (b) send to the Secretary of State a copy of the application, of any plans and other documents sent with it, and of the environmental statement; and
- (c) consult the authorities, bodies or persons mentioned in Schedule 4 about the environmental statement and inform them that they may make representations.

(2) Where an applicant for planning permission submits an environmental statement to the planning authority, he shall let them have enough copies of the environmental statement or parts thereof to enable them to comply with paragraph (1)(c) of this regulation and 3 additional copies.

(3) Where under this regulation a planning authority consult any authority, body or person about any environmental statement, they shall give not less than 4 weeks' notice to such authority, body or person that environmental information is to be taken into consideration, and shall not take the environmental information into consideration until after the expiration of the period of such notice.

(4) Where any authority, body or person which a planning authority are required to consult under this regulation consider that consultation with them is not required in respect of any environmental statement relating to any case or class of case or relating to any specified area, they shall so inform the planning authority in writing and notwithstanding the foregoing provisions of this regulation the planning authority shall not be required so to consult them.

Consultation where environmental statement received by Secretary of State

19.—(1) This regulation applies where the Secretary of State is taking into consideration environmental information relating to an application to which regulation 6 applies and which is being determined by him by virtue of section 32 or 33 and the environmental statement has not previously been submitted to the planning authority.

(2) The provisions of regulation 18(1)(c), (2), (3) and (4) shall apply to the Secretary of State as they apply to the planning authority, as if references to the applicant include, where the case requires, references to an appellant.

(3) The Secretary of State shall consult the planning authority for the area in which is situated the land to which the application relates about the environmental statement and shall send them 2 copies of it.

(4) When the planning authority receive 2 copies of the environmental statement under paragraph (3) they shall place one copy in Part I of the register together with a copy of the related application.

Time periods for authority's decision on planning application

20.—(1) For the purpose of calculating the period of time which elapses before the planning authority give notice to the applicant of their decision on an application for planning permission under article 10(5) of the general development order, no account shall be taken of any period falling between the date of receipt of the application and the occurrence of such of the events specified in paragraph (2) as may be applicable to the case.

(2) The events mentioned in paragraph (1) are—

- (a) the giving by the Secretary of State of a direction that consideration of environmental information is not required before planning permission could be granted for the proposed development;
- (b) the receipt by the planning authority of an environmental statement relating to the application and the certificate required by regulation 16(3) to accompany it.

(3) Where a planning authority in determining an application for planning permission take into consideration environmental information relating to that application, article 10 of the general development order shall have effect as if—

- (a) there were substituted for the reference in paragraph (5) thereof to a period of two months, a reference to a period of 4 months;
- (b) there were substituted for the reference in paragraph (3) thereof to a period of 14 days, a reference to a period of 28 days; and
- (c) in paragraph 3(b) thereof there were a reference to whichever of the following dates is later—
 - (i) the date on which a notice in accordance with article 7(5)

of the general development order was published by the planning authority, or
(ii) the date on which a notice in accordance with regulation 16(4) was published.

(4) In the application of section 34(7) to an application to which regulation 6 applies, the reference to such period as may be prescribed by the general development order shall be taken to mean such period as may be prescribed by the general development order when read with these Regulations.

Copy of environmental statement for the Secretary of State

21. Where an environmental statement is provided in relation to an application for planning permission which is directed to be referred to the Secretary of State for determination, or is to be the subject of an appeal to him, the applicant or appellant shall provide the Secretary of State with a copy of the environmental statement unless (in the case of a referred application) the planning authority have already forwarded one when referring the application.

Further information and evidence relating to environmental statements

22.—(1) The Secretary of State, or reporter, or the planning authority, when dealing with an application or appeal in relation to which an environmental statement has been provided, may in writing require the applicant or appellant to provide such further information as may be specified to enable the application or appeal to be determined, or concerning any matter which is required to be dealt with in the environmental statement; and where in the opinion of the planning authority, the Secretary of State or the reporter—

- (a) the applicant or appellant could (having regard in particular to current knowledge and methods of assessment) provide further information about any matter mentioned in paragraph 3 of Schedule 3; and
- (b) that further information is reasonably required to give proper consideration to the likely environmental effects of the proposed development,

they or he shall notify the applicant or appellant in writing and the applicant or appellant shall provide that further information.

(2) The Secretary of State, the reporter, or the planning authority may in writing require to be produced to them such evidence, in respect of any environmental statement which it falls to them to take into consideration, as they may reasonably call for to verify any information it contains.

Provision of relevant information

23. Any authority, body or person mentioned in Schedule 4 who have been informed under regulation 8 or 15 that a person is proposing to make or has made an application to which regulation 6 applies and the planning authority themselves shall, if requested by the applicant or appellant, or may without any such request, enter into consultation with him with a view to ascertaining whether they have any information in their possession which he or they consider relevant to the preparation of the environmental statement and shall make any such information available to him.

Intimation of decision

24. Where, after taking into consideration environmental information, an application for planning permission has been determined by a planning authority or the Secretary of State, they or he shall inform of their decision in addition to the applicant—

(7) Section 34 was amended by the Local Government and Planning (Scotland) Act 1982 (c. 43), Schedule 2, paragraph 12 and by the Local Government (Scotland) Act 1973 (c. 65), section 172(2).

- (a) the Secretary of State or the planning authority respectively;
- (b) all the authorities, bodies or persons mentioned in Schedule 4 who have been consulted about the environmental statement; and
- (c) those persons mentioned in regulation 16(4).

Development by planning authorities

Development by planning authority

25.—(1) Before a planning authority take any action under regulation 4 of the 1981 Regulations, they shall consider whether, if the proposed development were the subject of an application for planning permission, it would be an application to which regulation 6 applies and shall consult such of the authorities, bodies or persons mentioned in Schedule 4 as they consider appropriate.

(2) Any consultation under paragraph (1) shall be accompanied by—

- (a) a plan sufficient to identify the land on which the proposed development would be carried out; and
- (b) a brief description of the nature and purpose of the proposed development and of its possible effects on the environment.

(3) Subject to any direction by the Secretary of State, where the planning authority consider that their proposed development would be an application to which regulation 6 applies, they shall prepare an environmental statement in respect of the proposed development.

Provision of information to planning authority

26. In preparing an environmental statement the planning authority shall inform the authorities, bodies and persons mentioned in Schedule 4 that they are doing so and any authority, body or person so informed shall make available to the planning authority any information in their possession which they or the planning authority consider relevant to the preparation of the environmental statement.

Publicity for environmental statement prepared by planning authority

27.—(1) After an environmental statement has been prepared, the planning authority shall—

- (a) place a copy of the environmental statement in Part I of the register together with the copy of the notice of intention to develop required to be placed there by regulation 8 of the 1981 Regulations;
- (b) make available copies of the environmental statement for inspection by, and sale to, the public; and
- (c) in addition to publishing a notice in a local newspaper under regulation 4(1) of the 1981 Regulations, publish such a notice in the Edinburgh Gazette.

(2) The notice to be so published shall contain in addition to the information specified in regulation 4(1) of the 1981 Regulations, a statement—

- (a) that an environmental statement has been prepared;
- (b) that copies of the environmental statement may be inspected and acquired at the same address and times as the plans of the proposed development may be inspected;
- (c) of the cost of a copy of the environmental statement; and
- (d) that representations may be made in writing to the planning authority within 4 weeks of the later date of publication under paragraph (1)(c) where the notices were not published on the same day.

(3) In addition to the consultations carried out under regulation 4(2)(b) of the 1981 Regulations, the planning authority shall consult the authorities, bodies or persons listed in Schedule 4 on the environmental statement, shall send each of them a copy thereof and shall inform them that they may make representations.

(4) The information to be provided by the planning authority, when complying under regulation 4(2)(c) of the 1981 Regulations with the requirements of any development order or direction, shall include information to the same effect as is specified in sub-paragraphs (a) to (d) of paragraph (2) of this regulation.

Granting of planning permission to planning authority

28.—(1) No planning permission shall be deemed to have been granted under regulation 5(1) of the 1981 Regulations where, if the proposed development were the subject of an application for planning permission, it would be an application to which regulation 6 applies.

(2) Where paragraph (1) applies, the provisions of regulation 6 of the 1981 Regulations shall apply as if the proposed development were one of the classes of case specified in paragraph (1) of regulation 6 of the 1981 Regulations.

(3) When complying with the provisions of regulation 6 of the 1981 Regulations in respect of a proposed development to which paragraph (1) of this regulation applies, the planning authority shall accompany their notice of intention to develop with a copy of the environmental statement.

Intimation of decision

29. Where the Secretary of State under section 32 grants planning permission for development by a planning authority or planning permission is deemed to have been granted under regulation 6(3) of the 1981 Regulations, the Secretary of State shall inform the authorities, bodies or persons consulted under regulation 27(3) of the decision.

Referral of application to regional planning authority

Referral of application to regional planning authority

30.—(1) Where a regional planning authority exercise their powers under section 179 of the Local Government (Scotland) Act 1973⁽⁸⁾ to have referred to them an application to which regulation 6 applies—

- (a) the provisions of these Regulations other than regulation 7 shall apply to a regional planning authority as they apply to a planning authority;
 - (b) section 179(6) of the said 1973 Act shall have effect as if the period of 3 months referred to therein were a period of 4 months.
- (2) In the application of these Regulations by a regional planning authority—
- (a) in regulations 13(1) and 14(1) the words “the date of receipt of the application” shall have effect as if they referred to the date when the application was received to the regional planning authority;
 - (b) where it appears to the regional planning authority that a copy of the environmental statement has not been placed in Part I of the register in accordance with regulation 18(1) (a), the planning authority from which the application has been referred shall continue to comply with regulation 18(1)(a).

⁽⁸⁾ 1973 c. 65; section 179 was substituted by the Local Government and Planning (Scotland) Act 1982 (c. 43), Schedule 3, paragraph 24, and was amended by the Housing and Planning Act 1986 (c. 63), Schedule 11, paragraph 61.

General

Application to the Court of Session

31. For the purposes of sections 231 and 233, the references in section 233(1)(b) and (2) to action on the part of the Secretary of State which is not within the powers of the Act shall be taken to extend to a grant of planning permission by the Secretary of State in breach of the prohibition imposed by regulation 6.

Service of notices, etc.

32. Any notice or other document to be sent, served or given under these Regulations may be served or given in a manner specified in section 269.