
STATUTORY INSTRUMENTS

1988 No. 1221

The Environmental Assessment (Scotland) Regulations 1988

PART III

ELECTRICITY APPLICATIONS

Application

33. This Part of these Regulations applies in any case where an electricity application is received by the Secretary of State on or after 15th July 1988.

Interpretation

34. In this Part of these Regulations, unless the contrary intention appears—

“annex 1 application” or “annex 2 application” means an application for consent or approval under—

- (a) the Electricity (Supply) Acts 1882-1936(1);
- (b) the Schedule to the Electric Lighting (Clauses) Act 1899(2); or
- (c) the Electricity (Scotland) Act 1979(3),

in respect of development of any description in paragraph 2 of Schedule 1 or in paragraph 3 of Schedule 2 respectively;

“electricity application” means an annex 1 application or an annex 2 application.

Consent and annex 1 and annex 2 applications

35.—(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;

except where it is exempt development.

(2) The Secretary of State shall not grant consent or approval in respect of an electricity application to which this regulation applies unless he has 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 by virtue inter alia of its nature, size or location where the applicant and the planning authority accept that this is the case.

(1) 1882 c. 56, 1888 c. 12, 1909 c. 34, 1919 c. 100, 1922 c. 46, 1926 c. 51, 1936 c. 20
(2) 1899 c. 19
(3) 1979 c. 11

Directions by the Secretary of State

36. The Secretary of State, whether called upon to do so or not, may direct in respect of a particular electricity application—

- (a) that consideration of environmental information is or is not required in terms of regulation 35(2); or
- (b) that the application shall as regards the whole or any part thereof be exempt from these Regulations, which direction shall include a statement of his reasons therefor.

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

37.—(1) Where it appears to the Secretary of State that an electricity application is an application to which regulation 35 applies, but it is not accompanied by an environmental statement, the Secretary of State shall within 4 weeks beginning with the date of receipt of the application or such longer period as he may reasonably require, and having consulted the planning authority, notify the applicant in writing—

- (a) of his view and that without taking into consideration environmental information he may not grant consent or approval;
- (b) of his view that the applicant should provide an environmental statement; and
- (c) that the authorities, bodies and persons mentioned in Schedule 4, as may appear to the Secretary of State to be relevant, are required to make available to the applicant such information as they have in their possession which the applicant or they consider relevant to the preparation of the environmental statement,

and the Secretary of State shall also inform the authorities, bodies and persons mentioned in Schedule 4 as may appear to him to be relevant—

- (i) of the application and the requirement for an environmental statement; and
- (ii) that they may be required to make available to the applicant in accordance with regulation 44 any information in their possession which the applicant or they consider relevant to the preparation of the environmental statement.

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

- (a) inform the Secretary of State and the planning authority in writing that he will provide an environmental statement;
- (b) apply to the Secretary of State in accordance with regulation 38 for a direction under regulation 36(a), notwithstanding any view already expressed by the Secretary of State, as to whether consideration of environmental information is required; or
- (c) apply to the Secretary of State in accordance with regulation 38 for a direction under regulation 36(b) that the application should, as regards the whole or any part thereof, be exempt from these Regulations.

(3) If the applicant takes no action under paragraph (2) or states that he does not intend to provide an environmental statement, his application shall be deemed to have been withdrawn at the end of the period mentioned in that paragraph.

Application for direction to the Secretary of State

38.—(1) An application to the Secretary of State under regulation 37(2)(b) or (c) for a direction shall be accompanied by—

- (a) a copy of the applicant's electricity application;
- (b) a copy of any document relating to the electricity application;

- (c) a brief description of the nature and purpose of the proposed development and of its possible effects on the environment;
- (d) a copy of any view expressed by the Secretary of State under regulation 37(1); and
- (e) any representations which the applicant wishes to make.

(2) At the same time as applying for a direction from the Secretary of State, the applicant shall send to the planning authority a copy of his application for a direction and of all other documents specified in paragraph (1).

(3) The planning authority may within 2 weeks of the date of the receipt of the documents sent to them under paragraph (2) make written comments to the Secretary of State on any matter relating to the application for a direction, and in so doing shall send a copy of such comments to the applicant.

(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, as appropriate, the planning authority shall supply him with such further information as he may request, and the supplier of the information shall at the same time send a copy of that information to the planning authority or to the applicant, as appropriate.

(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 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

39. Where the Secretary of State makes any direction under regulation 36, he shall send a copy of the direction to the applicant and to the planning authority, and to such other persons as he considers appropriate, together with documents sufficient to identify the land and the proposed development to which the direction relates; and where the Secretary of State has made a direction under regulation 36(b), the planning authority shall make a copy of the direction and the related documents available for inspection by the public at all reasonable hours.

Publicity for environmental statement

40.—(1) In respect of an electricity application to which regulation 35 applies, when the applicant submits an environmental statement to the Secretary of State the applicant shall send a copy to the planning authority, together with sufficient additional copies to enable the planning authority to comply with paragraph (1) of regulation 42, and shall issue a public notice to the effect that—

- (a) an environmental statement in respect of a particular electricity application has been prepared;
- (b) the statement may be inspected for a period of 4 weeks at a specified address in the locality of the land affected by the application;
- (c) a copy of the statement may be acquired at a specified address and at a specified cost; and
- (d) that representations may be made in writing in respect of the statement, and sent to the Secretary of State at a specified address within 4 weeks of the date of publication or notice made in accordance with paragraph (2).

(2) The public notice under paragraph (1) may be—

- (a) by advertisement in one or more local newspapers circulating in the area of the land to which the application relates, and in the Edinburgh Gazette; or

(b) included in the first notice which the applicant makes in terms of the Electricity (Publication of Applications) (Scotland) Regulations 1958(4).

(3) The applicant shall send a copy of the notice or advertisement as appropriate to the Secretary of State and the planning authority.

(4) The Secretary of State shall send to the planning authority a copy of any representations received.

(5) Where apart from these Regulations notice in respect of an electricity application is required to be given to an authority, body or person and in respect of any such application an environmental statement has been submitted to the Secretary of State, a copy of the statement shall also be supplied to that authority, body or person as appropriate.

Copies of environmental statement for the public

41. Where an environmental statement is provided in relation to an electricity application, the applicant shall ensure that a reasonable number of copies of the statement are available at the address named in his public notice made under regulation 40 as the address at which copies may be obtained.

Consultation where planning authority notified of environmental statement

42.—(1) In respect of an electricity application to which regulation 35 applies, when a planning authority receive an environmental statement they shall consult by letter all relevant authorities, bodies or persons mentioned in Schedule 4 regarding the statement.

(2) Where any relevant 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 an environmental statement relating to a particular electricity application, or class of electricity application, 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.

(3) Those consulted may make representations within 4 weeks from the date of the letter under paragraph (1) before the expiry of which period the planning authority shall not consider the environmental statement.

(4) On the expiry of the period stated in paragraph (3) the planning authority shall consider the environmental statement together with the representations from those consulted and the representations received under regulation 40(4) and shall make a report thereon.

(5) The planning authority shall within 16 weeks from the date of the receipt of the environmental statement under paragraph (1) send to the Secretary of State a copy of their report and of the representations received from those consulted under paragraph (1).

(6) In making his determination in respect of an electricity application to which regulation 35 applies, the Secretary of State shall consider the environmental statement provided by the applicant, the report received under paragraph (5) and any representations received.

Further information and evidence relating to environmental statement

43.—(1) The Secretary of State, when considering an electricity application in relation to which an environmental statement has been provided, may in writing require the applicant to provide such further information as he may specify to enable the application 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 Secretary of State—

- (a) the applicant 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,

he shall notify the applicant in writing, and the applicant shall provide that further information.

(2) The Secretary of State may in writing require the applicant to produce to him such evidence, in respect of any environmental statement which it falls to him to take into consideration, as he may reasonably call for to verify any information it contains.

Provision of relevant information

44. Any authority, body or person mentioned in Schedule 4 who have been informed under regulation 37 that an electricity application to which regulation 35 applies has been made without an environmental statement shall, if requested by the applicant, 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 the applicant or they consider relevant to the preparation of the environmental statement, and shall make any such information available to the applicant.

Intimation of decision

45.—(1) Where, after taking into consideration environmental information, an electricity application has been determined by the Secretary of State, he shall inform of his decision in addition to the applicant—

- (a) the planning authority; and
- (b) all authorities, bodies or persons consulted under regulation 42.

(2) On the determination referred to in paragraph (1) being received by the planning authority, they shall make a copy of the determination available for public inspection at their offices within reasonable hours.