
STATUTORY INSTRUMENTS

1988 No. 1221

The Environmental Assessment (Scotland) Regulations 1988

PART IV

SPECIFIC DEVELOPMENTS IN NEW TOWNS

Application

46. This Part of these Regulations applies in any case where a specific development application is made to a development corporation on or after 15th July 1988, or where a development corporation first proposes on or after that date to carry out a specific development.

Interpretation

47. In this part of these Regulations, unless the contrary intention appears—

“annex 1 application” or “annex 2 application” means an application for authorisation under a special order in respect of development of any description in Schedule 1 or 2 respectively;

“development corporation” means a corporation established by order made, or having effect as if made, under section 2 of the New Towns (Scotland) Act 1968⁽¹⁾;

“special order” means an order made, or having effect as if made, under section 21 of the Town and Country Planning (Scotland) Act 1972⁽²⁾ and section 6(2) of the New Towns (Scotland) Act 1968;

“specific development” means any particularised project or development, which is development of any description in Schedule 1 or 2, to be carried out by the development corporation in accordance with proposals approved by the Secretary of State under section 6(1) of the New Towns (Scotland) Act 1968, or by any person in circumstances where the carrying out of development by that person is deemed under a special order to be the carrying out of development by the development corporation;

“specific development application” means an annex 1 application or an annex 2 application.

Authorisation and annex 1 and annex 2 applications

48.—(1) This regulation applies to—

(a) an annex 1 application; or

(b) an annex 2 application where the proposed specific 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.

(1) 1968 c. 16

(2) 1972 c. 52; section 21 was amended by the Housing and Planning Act 1986 (c. 63), Schedule 11, paragraph 30.

(2) The development corporation shall not carry out a specific development, nor shall they grant authorisation of a specific development to which this regulation applies, unless they have taken into consideration environmental information in respect of the proposed specific development.

(3) Subject to any direction by the Secretary of State, for the purposes of paragraph (1)(b) a proposed specific 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 development corporation accept that this is the case.

Directions by the Secretary of State

49. The Secretary of State, whether called upon to do so or not, may direct in respect of a particular specific development application, or in respect of a particular specific development proposed to be carried out by the development corporation—

- (a) that consideration of environmental information is or is not required in terms of regulation 48(2); or
- (b) that the application or the proposed specific development shall be exempt as regards the whole or any part thereof from these Regulations, which direction shall include a statement of his reasons therefor.

Annex 1 or annex 2 application to development corporation without environmental statement

50.—(1) Where it appears to the development corporation that a specific development application is an application to which regulation 48 applies, but it is not accompanied by an environmental statement, they shall within 4 weeks beginning with the date of receipt of the application or such longer period as they may reasonably require notify the applicant in writing—

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

and the development corporation shall also inform the authorities, bodies and persons mentioned in Schedule 4 as may appear to them 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 55 any information in their possession which he 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 development corporation in writing that he will provide an environmental statement;
 - (b) apply to the Secretary of State in accordance with regulation 61 for a direction under regulation 49(a) as to whether consideration of environmental information is required; or
 - (c) apply to the Secretary of State in accordance with regulation 61 for a direction under regulation 49(b) that the application should, as regards the whole or any part thereof, be exempted 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.

Publicity for environmental statement

51.—(1) In respect of a specific development application to which regulation 48 applies, when the applicant submits an environmental statement to the development corporation he shall serve on any person who holds a notifiable interest in neighbouring land, or to such other person, if any, appearing to the development corporation to have an interest as the development corporation in that particular instance may specify, a notice stating—

- (a) that the environmental statement may be inspected in the offices of the development corporation for the period of 4 weeks from the date of 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 in respect of the statement, and sent to the development corporation at a specified address within 4 weeks of the date on which the said notice was delivered.

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

(3) When the applicant submits an environmental statement, he shall also publish as soon as possible thereafter a notice (containing similar information to that required to be included in a notice served in accordance with paragraph (1)) in one or more local newspapers circulating in the area of the proposed specific development and in the Edinburgh Gazette.

(4) The applicant shall also send to the development corporation a copy of the notices which have been served and published in accordance with paragraphs (1) and (3) respectively.

(5) An environmental statement shall not be considered by a development corporation unless its accompanied by a certificate stating—

- (a) (i) that notices have been served in accordance with paragraph (1); or
(ii) that notification in accordance with paragraph (1) is required; or
(iii) that the applicant has taken such steps as are reasonably open to him (specifying them) to ascertain the names and addresses of the parties holding a notifiable interest in neighbouring land, and either—
 - (a) 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
 - (b) 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;
 - (b) where appropriate the names and addresses of all those parties having a notifiable interest in neighbouring land, and of all others specified by the development corporation as having an interest in the specific development, who have been notified in accordance with paragraph (1); and
- (c) that publication in accordance with paragraph (3) has been made.

(6) 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

52. Where an environmental statement is provided in relation to an application for authorisation of a specific development, the applicant shall ensure that a reasonable number of copies of the statement are available at the address named in his notices, served or published under regulation 51, as the address at which copies may be obtained.

Consultation where environmental statement received by development corporation

53.—(1) Where a development corporation receive an environmental statement relating to a specific development application to which regulation 48 applies, they shall—

- (a) make available for public inspection at their offices within reasonable hours a copy of the application, of any plans and other documents sent with it, and of the environmental statement;
- (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 those authorities, bodies or persons mentioned in Schedule 4, which appear to the development corporation to be relevant, about the application and the statement.

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

(3) Where under this regulation a development corporation 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 expiry of the period of such notice.

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

Further Information and evidence relating to environmental statements

54.—(1) The development corporation, when considering a specific development application in relation to which an environmental statement has been provided, may in writing require the applicant to provide such further information as they may specify to enable the application to be determined, or to enable them to take fully into consideration any matter which under these Regulations is required to be dealt with in the environmental statement; and where in the opinion of the development corporation—

- (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,

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

(2) The development corporation may in writing require the applicant to produce 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

55. Any authority, body or person mentioned in Schedule 4 who have been informed under regulation 50 that a specific development application to which regulation 48 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 he or they consider relevant to the preparation of the environmental statement, and shall make any such information available to him.

IntimatIon of decision

56.—(1) Where, after taking into consideration environmental information, an application for authorisation of a specific development has been determined by a development corporation, they shall inform of their decision in addition to the applicant—

- (a) the Secretary of State;
- (b) all authorities, bodies and persons consulted under regulation 53; and
- (c) those parties mentioned in regulation 51(5)(b).

(2) On making the determination referred to in paragraph (1), the development corporation shall also make a copy of their decision available for public inspection at their offices within reasonable hours.

Specific development by development corporation

57.—(1) Before the development corporation carries out work on a specific development, they shall consider whether if it were the subject of a specific development application it would be an application to which regulation 48 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 specific development would be carried out; and
- (b) a brief description of the nature and purpose of the proposed specific development and of its possible effects on the environment.

(3) Subject to any direction by the Secretary of State, where the development corporation consider that the proposed specific development, if it were the subject of a specific development application, would be an application to which regulation 48 applies, the development corporation shall prepare an environmental statement in respect of the proposed specific development.

(4) Where the development corporation consider that the proposed specific development, if it were the subject of a specific development application, would not be an application to which regulation 48 applies, they shall inform the Secretary of State of their view before carrying out work on the specific development.

Provision of informatIon to development corporation

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

Publicity for environmental statement prepared by development corporation

59.—(1) When an environmental statement has been prepared by the development corporation—

- (a) they shall provide a copy thereof to, and serve a notice in accordance with paragraph (2) on—
 - (i) the Secretary of State;
 - (ii) each authority, body or person mentioned in Schedule 4, as appears relevant to the development corporation;
 - (iii) any person who holds a notifiable interest in neighbouring land; and
 - (iv) such other person, if any, appearing to the development corporation to have an interest; and
- (b) they shall publish in one or more local newspapers circulating in the area of the proposed specific development, and in the Edinburgh Gazette, a notice in accordance with paragraph (2).

(2) The notice required to be served or published under paragraph (1) shall contain a statement to the effect that—

- (a) the development corporation propose to undertake a specific development, giving a brief description of the nature and purpose of the proposed development and identifying the land on which the proposed development would be carried out;
- (b) an environmental statement has been prepared;
- (c) copies of the environmental statement may be inspected and acquired within certain hours at the offices of the development corporation;
- (d) copies of the environmental statement may be bought at a specified cost; and
- (e) representations may be made in writing to the development corporation within 4 weeks of the date of service of the notice or of the publication containing the notice, whichever is appropriate.

(3) Where paragraph (1) applies, the development corporation shall also make available within reasonable hours at their offices copies of the environmental statement for inspection by and sale to the public.

(4) The persons holding a notifiable interest in neighbouring land are the owners, lessees and occupiers of the land; and for the purposes of this regulation “neighbouring land” has the same meaning as in article 2(1) of the general development order.

Intimation of decision on proposed specific development by development corporation

60.—(1) Where, after taking into consideration environmental information, the development corporation have made a determination in respect of a proposed specific development to be carried out by themselves, they shall inform of their decision—

- (a) the Secretary of State; and
- (b) all other authorities, bodies and persons consulted or notified under regulation 57 and regulation 59(1) respectively.

(2) On making the determination referred to in paragraph (1), the development corporation shall also make a copy of their decision available for public inspection at their offices within reasonable hours.

Application for direction to the Secretary of State

61.—(1) An application to the Secretary of State under regulation 50(2)(b) or (c) for a direction shall be accompanied by—

- (a) a copy of the applicant’s specific development application;
- (b) a copy of any document relating to that 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 the development corporation’s opinion under regulation 50(1); and
- (e) any representations which the applicant wishes to make.

(2) On the date on which an application is made to the Secretary of State for a direction under regulation 50(2)(b) or (c), the applicant shall send to the development corporation a copy of—

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

and the development corporation may within 4 weeks beginning with that date make written comments to the Secretary of State on any issue relating to the application.

(3) Where, in respect of a proposed specific development to be carried out by the development corporation under regulation 57, the Secretary of State notifies the development corporation that he intends to make a direction in accordance with regulation 49, or the development corporation applies to him to make such a direction, the development corporation shall provide the Secretary of State with—

- (a) a plan sufficient to identify the land on which the proposed specific development would be carried out;
- (b) a description of the nature and purpose of the proposed specific development and of its likely effects on the environment;
- (c) a copy of any opinion received from an authority, body or person mentioned in Schedule 4 whom the development corporation have consulted; and
- (d) any representations which the development corporation wish to make.

(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 or the development corporation, as appropriate, 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, as appropriate, to the development corporation or the applicant.

(5) If on the expiry of 8 weeks from the date of the receipt by the Secretary of State of the application referred to in paragraph (1) or in paragraph (3) (or such longer period as the Secretary of State may, during the said 8 weeks, or any period so extended, notify in writing to the applicant and the development corporation, in the case of an application referred to in paragraph (1), or to the development corporation, in the case of an application referred to in paragraph (3)) 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

62. Where the Secretary of State makes any direction under regulation 49, he shall send a copy of the direction to the applicant and to the development corporation, or to the development corporation, and to such other persons as he considers appropriate, as may be relevant, together with documents sufficient to identify the land and the proposed specific development to which the direction relates;

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and the development corporation shall make a copy of the direction and the related documents available for inspection by the public at all reasonable hours.