
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 614

**TOWN AND COUNTRY PLANNING
LAND DRAINAGE
ROADS AND BRIDGES
FISH FARMING
FORESTRY
AGRICULTURE**

**The Environmental Impact Assessment
(Scotland) Amendment Regulations 2006**

<i>Made</i>	- - - -	<i>21st December 2006</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>22nd December 2006</i>
<i>Coming into force</i>	- -	<i>1st February 2007</i>

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(1), and section 40 of the Town and Country Planning (Scotland) Act 1997(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:

**PART I
INTRODUCTORY**

Citation and commencement

1. These Regulations may be cited as the Environmental Impact Assessment (Scotland) Amendment Regulations 2006 and shall come into force on 1st February 2007.

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- (1) [1972 c. 68](#). The enabling powers of section 2(2) of this Act were extended by virtue of the amendment of section 1(2) by section 1 of the European Economic Area Act [1993 \(c. 51\)](#). Section 2(2) of this Act was amended by the [Scotland Act 1998 \(c. 46\)](#), Schedule 8, paragraph 15(3). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act [1998 \(c. 46\)](#).
- (2) [1997 c. 8](#). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act [1998 \(c. 46\)](#).

Commencement Information

II [Reg. 1](#) in force at 1.2.2007, see [reg. 1](#)

PART II

PLANNING AND DRAINAGE WORKS

Amendment to the Environmental Impact Assessment (Scotland) Regulations 1999

2. The Environmental Impact Assessment (Scotland) Regulations 1999⁽³⁾ are amended in accordance with this Part.

Commencement Information

I2 [Reg. 2](#) in force at 1.2.2007, see [reg. 1](#)

Town and Country Planning

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

(a) after the definition of “the Act” insert—

““any other information” means any other substantive information relating to the environmental statement and provided by the applicant or appellant as the case may be;”;

(b) in the definition of “the consultation bodies” after paragraph (f) insert—

“(g) other bodies designated by statutory provision as having specific environmental responsibilities and which the relevant planning authority or the Scottish Ministers, as the case may be, considers are likely to have an interest in the application.”;

(c) in the footnote to the definition of “the Directive” insert at the end “and as also amended by Council Directive [2003/35/EC](#)⁽⁴⁾”;

(d) in the definition of “environmental information” after “further information” insert “and any other information”;

(e) in the definition of “exempt development” omit “which comprises or forms part of a project serving national defence purposes or”; and

(f) in the definition of “sensitive area” delete the existing (a) to (f) and replace it with the following—

“(a) land notified under sections 3(1) or 5(1) (sites of special scientific interest) of the Nature Conservation (Scotland) Act 2004⁽⁵⁾;

(b) land in respect of which an order has been made under section 23 (nature conservation orders) of the Nature Conservation (Scotland) Act 2004;

⁽³⁾ S.S.I. 1999/1.

⁽⁴⁾ O.J. L 156, 25.6.03, p.17.

⁽⁵⁾ 2004 asp 6.

- (c) a European site within the meaning of regulation 10 of the Conservation (Natural Habitats, &c.) Regulations 1994⁽⁶⁾;
 - (d) a property appearing in the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage⁽⁷⁾;
 - (e) a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979⁽⁸⁾;
 - (f) an area designated as a National Scenic Area by a direction made by the Secretary of State under section 262C of the Town and Country Planning (Scotland) Act 1972⁽⁹⁾;
 - (g) an area designated as a National Park by a designation order made by the Scottish Ministers under section 6(1) of the National Parks (Scotland) Act 2000⁽¹⁰⁾.”
- (2) In regulation 4 (general provisions relating to screening) for paragraph (4) substitute–
- (a) “(4) The Scottish Ministers may direct that these regulations shall not apply to a particular proposed development specified in the direction in accordance with Article 2(3) of the Directive (but without prejudice to Article 7 of the Directive).
 - (b) Where a direction is given under paragraph (a) the Scottish Ministers must–
 - (i) send a copy of any such direction to the relevant planning authority;
 - (ii) make available to the public concerned the information considered in making the direction and the reasons for making the direction;
 - (iii) consider whether another form of assessment would be appropriate; and
 - (iv) take such steps as are considered appropriate to bring the information obtained under the other form of assessment to the attention of the public concerned.”
- (3) In regulation 12 (procedure to facilitate preparation of environmental statements) for paragraph (5) substitute–
- “(5) In relation to a person to which the Environmental Information (Scotland) Regulations 2004⁽¹¹⁾ apply, paragraph (4) shall not require disclosure of information which the person–
- (a) may refuse to disclose under regulation 10(1) of those Regulations; or
 - (b) is prevented from disclosing by regulation 11(1) of those Regulations.
- (5A) In relation to a person to which the Environmental Information Regulations 2004⁽¹²⁾ apply, paragraph (4) shall not require disclosure of information which the person–
- (a) may refuse to disclose under regulation 12(1) of those Regulations; or
 - (b) is prevented from disclosing by regulation 13(1) of those Regulations.”

(4) In regulation 13 (publicity for environmental statement) in paragraph 1(a) after “statement” insert “and other documents submitted with the application”.

⁽⁶⁾ S.I. 1994/2716.

⁽⁷⁾ See Command Paper 9424.

⁽⁸⁾ 1979 c. 46.

⁽⁹⁾ 1972 c. 52. The Town and Country Planning (Scotland) Act 1972 (the 1972 Act) was repealed by the Planning (Consequential Provisions) (Scotland) Act 1997 c. 8 (the 1997 Act) subject to a saving in respect of any area which on 1st April 1992 was designated as a National Scenic Area under section 262C of the 1972 Act; Section 5 of and paragraph 11 of Schedule 3 to the 1997 Act.

⁽¹⁰⁾ 2000 asp 10.

⁽¹¹⁾ S.S.I. 2004/520.

⁽¹²⁾ S.I. 2004/3391.

- (5) In regulation 19 (further information and evidence relating to environmental statements)–
- (a) in paragraph (2)(b) for “regulations” insert “and that information is required to be publicised as part of that inquiry or appeal procedure as the case may be, regulations”; and
 - (b) after paragraph (2) insert–

“(2A) Paragraph (2) shall apply in relation to any other information unless such other information is provided for the purposes of an inquiry held under the Act or for the purposes of an appeal under section 130 of the Act and that information is required to be publicised as part of that inquiry or appeal procedure as the case may be.”.
- (6) In regulation 20 (availability of opinions, directions etc. for inspection) in paragraph 1(g) after “further information” insert “and any other information”.
- (7) In regulation 21 (duties to inform the public and the Scottish Ministers of final decisions)–
- (a) in paragraph (1)(c)(ii) after “on which the decision is based” insert “including, if relevant, information about the participation of the public”;
 - (b) after paragraph (1)(c)(iii) insert–

“and

 - (iv) information regarding the right to challenge the validity of the decision and the procedures for doing so.”; and
 - (c) in paragraph (2) after “determined” insert “or a draft decision is issued”.
- (8) In regulation 24 (publicity for environmental statement prepared by planning authority)–
- (a) in paragraph (2)(b) after “statement” insert “and any other documents submitted with the application”; and
 - (b) in paragraph (2) insert–

“(aa) that the nature of possible decisions relating to the planning application are:–

 - (i) grant planning permission without conditions;
 - (ii) grant planning permission with conditions;
 - (iii) refuse permission.”.

(9) In regulation 28B (application for permission under section 242A)(13)–

 - (a) in paragraph (8) insert–
 - (i) at 20(1) “any other information” after “any further information”; and
 - (ii) at 20(2) “any further information and any other information” after “request direction”;
 - (b) in paragraph (9)(a) insert–
 - (i) at 21(1) “or a draft decision is issued” after “determined”;
 - (ii) at 21(1)(b)(ii) “including, if relevant, information about the participation of the public” after “on which the decision is based”; and
 - (iii) after 21(b)(iii)–

“and

 - (iv) information regarding the right to challenge the validity of the decision and the procedures for doing so.”.

(10) In regulation 36 (further information and evidence respecting environmental statements) in paragraph (2) after “further information” insert “and any other information”.

(13) Regulation 28B was inserted by article 20(2) of S.S.I. 2006/270.

(11) In regulation 37 (publicity for environmental statements or further information) in paragraph (1) after “further information” where it first and second occurs insert “and any other information”.

(12) In regulation 40 (development in Scotland likely to have significant effects in another EEA State)–

- (a) in paragraph (4)(a) after “in paragraphs (2) and (3)” insert “and any further information and any other information submitted by the applicant or appellant”; and
- (b) in paragraph (6)(b) after “on which the decision is based” insert “including, if relevant, information about the participation of the public”.

(13) In regulation 41 (projects in another EEA State likely to have significant transboundary effects) omit the “and” at the end of paragraph (a) and after (b) insert–

“and

- (c) so far as they have received such information, notify those authorities and the public concerned of the content of any decision of the competent authority of the relevant EEA State; and in particular–
 - (i) any conditions attached to it;
 - (ii) the main reasons and considerations on which the decision was based including, if relevant, information about the participation of the public; and
 - (iii) a description of the main measures to avoid, reduce and if possible, offset the major adverse effects that have been identified.”.

(14) After regulation 46 insert–

“Access to review procedure before a court

46A. Any non-governmental organisation promoting environmental protection and meeting any requirements under the law shall be deemed to have an interest for the purposes of Article 10a(a) of the Directive and rights capable of being impaired for the purposes of Article 10a(b) of the Directive.”.

(15) In Schedule 1 (descriptions of development for the purposes of the definition of “Schedule 1 development”), after paragraph 20, insert–

“**21.** Any change to or extension of development listed in this Schedule where such a change or extension in itself meets the thresholds, if any, or description of development set out in this Schedule.”.

(16) In Schedule 2 (descriptions of development and applicable thresholds and criteria for the purposes of the definition of “Schedule 2 development”), in paragraph 13(a) in column 1 (description of development) of the Table, after “in Schedule 1 or” insert “(other than a change or extension falling within paragraph 21 of Schedule 1)”.

(17) In Schedule 5 (notice under regulation 13)–

- (a) in the right hand column–
 - (i) after the first paragraph insert–

“possible decisions relating to the planning application are:–

 - (i) grant planning permission without conditions;
 - (ii) grant planning permission with conditions;
 - (iii) refuse permission.”; and
 - (ii) in the second paragraph after “application” insert “and other documents submitted with the application”; and

- (b) in paragraph (g) of the Notes after “address” insert “and, where available, website address.”.

Commencement Information

I3 Reg. 3 in force at 1.2.2007, see **reg. 1**

Drainage Works

- 4.—(1) In regulation 55(a) (interpretation)–
- (a) after the definition of “the Act” insert–
- ““environmental information” means the environmental statement, including any further information, any representations made by any body required by these Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effects of the development;
- “further information” has the meaning given in regulation 60(3);”;
- (b) after the definition of “local authority” insert:–
- ““sensitive area” means any of the following–
- (a) land notified under sections 3(1) or 5(1) (sites of special scientific interest) of the Nature Conservation (Scotland) Act 2004⁽¹⁴⁾;
- (b) land in respect of which an order has been made under section 23 (nature conservation orders) of the Nature Conservation (Scotland) Act 2004;
- (c) a European site within the meaning of regulation 10 of the Conservation (Natural Habitats, & c.) Regulations 1994⁽¹⁵⁾;
- (d) an area designated as a National Scenic Area by a direction made by the Secretary of State under section 262C of the Town and Country Planning (Scotland) Act 1972⁽¹⁶⁾;
- (e) an area designated as a National Park by a designation order made by the Scottish Ministers under section 6(1) of the National Parks (Scotland) Act 2000⁽¹⁷⁾.”.
- (c) omit the definition of “site of special scientific interest”.
- (2) In regulation 55(c)(ii) for “environmental information” substitute “the Directive”.
- (3) In regulation 59 (submission and publication of environmental statement)–
- (a) in paragraph (1)(b) for “site of special scientific interest” substitute “sensitive area”;
- (b) in paragraph (2) after “the Scottish Ministers shall” insert “as soon as possible”;
- (c) in paragraph 2(a) after “statement” insert “, any other documents submitted with the application and if relevant that regulation 60B(1) applies,”; and
- (d) in paragraph 2(b)–
- (i) after “statement” insert “and any other documents submitted with the application”;
- and

⁽¹⁴⁾ 2004 asp 6.

⁽¹⁵⁾ S.I. 1994/2716.

⁽¹⁶⁾ 1972 c. 52. The Town and Country Planning (Scotland) Act 1972 (“the 1972 Act”) was repealed by the Planning (Consequential Provisions) (Scotland) Act 1997 (c. 8) (“the 1997 Act”) subject to a saving in respect of any area which on 1st April 1992 was designated as a National Scenic Area under section 262C of the 1972 Act; Section 5 of and Paragraph 11 of Schedule 3 to the 1997 Act.

⁽¹⁷⁾ 2000 asp 10.

- (ii) after “to” where it first occurs insert “, and if relevant notify of the fact that regulation 60(B)(1) applies,”.
- (4) In regulation 60 (further information respecting environmental statement)–
 - (a) after paragraph (2) insert–
 - “(3) Where the Scottish Ministers have received further information relating to the application for the improvement order or the environmental statement–
 - (a) provided by the owner of the agricultural land in compliance with paragraph (1); or
 - (b) provided by the owner of the agricultural land on a voluntary basis or by any other person after the owner of the agricultural land has submitted an environmental statement and application under section 1 of the Act,the Scottish Ministers shall within a reasonable time of receipt of such information notify and publicise the further information received in the same manner as a draft improvement order under paragraph 1 of the First Schedule to the Act (and such further information is referred to in this Part of these Regulations as “further information”).”; and
 - (b) in paragraph (2)(c) for “reasonable” substitute “reasonably”.
- (5) After regulation 60 (further information respecting environmental statement) insert–

“Duties to inform the public of final decisions

60A. Where an application for an improvement order to which this Part applies is determined by the Scottish Ministers they shall–

- (a) in writing, inform the local authorities and other statutory bodies affected or likely to be concerned by the drainage works by reason of their specific environmental responsibilities, including the consultation bodies, of the decision and provide those persons with a copy of such a statement as mentioned in sub-paragraph (c);
- (b) inform the public of the decision (and of where the statement referred to in sub-paragraph (c) may be inspected), by publishing a notice in a newspaper circulating in the locality in which the land is situated, or by such other means as are reasonable in the circumstances; and
- (c) make available for public inspection at a place specified by them a statement containing–
 - (i) the content of the decision and any conditions attached thereto;
 - (ii) the main reasons and considerations on which the decision is based including, if relevant, information about the participation of the public;
 - (iii) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset any major adverse environmental effects of the drainage works; and
 - (iv) information on the right to challenge the decision and the procedures for doing so.

Development in Scotland likely to have significant effects in another EEA State

60B.—(1) Where–

- (a) it comes to the attention of the Scottish Ministers that an application for an improvement order made under section 1 of the Act to which this Part applies is likely to have significant effects on the environment in another EEA State; or

- (b) another EEA State likely to be so significantly affected by such an improvement order so requests,
- the Scottish Ministers shall—
- (i) send to the EEA State, as soon as possible and no later than the date of publication of the environmental statement and any other documents under regulation 59(2) the particulars mentioned in paragraph (2) and, if they think fit, the information referred to in paragraph (3); and
 - (ii) give the EEA State a reasonable time in which to indicate whether it wishes to participate in the procedure for which these Regulations provide.
- (2) The particulars referred to in paragraph (1)(i) are—
- (a) a description of the proposal for an improvement order, together with any available information on the possible significant effect of the proposed works on the environment in the other EEA State; and
 - (b) information on the nature of the decision which may be taken.
- (3) Where an EEA State indicates, in accordance with paragraph (1)(ii), that it wishes to participate in the procedure for which these Regulations provide, the Scottish Ministers shall as soon as possible send to that EEA State the following information—
- (a) a copy of the application for the improvement order concerned;
 - (b) a copy of the environmental statement in respect of the improvement order to which that application relates; and
 - (c) relevant information regarding the procedure under these Regulations,
- but only to the extent that such information has not been provided to the EEA State earlier in accordance with paragraph (1)(i).
- (4) The Scottish Ministers, insofar as they are concerned, shall also—
- (a) arrange for the particulars and information referred to in paragraphs (2) and (3) and any other documents submitted with the application and any further information submitted by the applicant or any other person relating to the environmental statement to be made available, within a reasonable time, to the authorities referred to in Article 6(1) of the Directive and the public concerned in the territory of the EEA State likely to be significantly affected; and
 - (b) ensure that those authorities and the public concerned are given an opportunity, before the improvement order is made, to forward to the Scottish Ministers, within a reasonable time, their opinion on the information supplied.
- (5) The Scottish Ministers shall, in accordance with Article 7(4) of the Directive—
- (a) enter into consultations with the EEA State concerned regarding, inter alia, the potential significant effects of the drainage works on the environment of that EEA State and the measures envisaged to reduce or eliminate such effects; and
 - (b) determine in agreement with the other EEA State a reasonable period of time for the duration of the consultation period.
- (6) Where an EEA State has been consulted in accordance with paragraph (5), on the determination of the application concerned the Scottish Ministers shall inform the EEA State of the decision and shall forward to it a statement of—
- (a) the content of the decision and any conditions attached thereto;
 - (b) the main reasons and considerations on which the decision is based including, if relevant, information about the participation of the public; and

- (c) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the drainage works.

Projects in another EEA State likely to have significant effects on the environment in Scotland

60C.—(1) Where the Scottish Ministers receive from another EEA State pursuant to Article 7(2) of the Directive information which that EEA State has gathered from the developer of a proposed project in that EEA State which is likely to have significant effects on the environment in Scotland, the Scottish Ministers shall, in accordance with Article 7(4) of the Directive—

- (a) enter into consultations with that EEA State regarding, inter alia, the potential significant effects of the proposed project on the environment in Scotland and the measures envisaged to reduce or eliminate such effects; and
- (b) determine in agreement with that EEA State a reasonable period, before development consent for the project is granted, during which the public concerned in Scotland may submit to the competent authority in that EEA State representations pursuant to Article 7(3)(b) of the Directive.

(2) The Scottish Ministers, insofar as they are concerned, shall also—

- (a) arrange for the information referred to in paragraph (1) to be made available, within a reasonable time, both to the authorities in Scotland which they consider are likely to be concerned by the project by reason of their specific environmental responsibilities, and to the public concerned in Scotland;
- (b) ensure that those authorities and the public concerned in Scotland are given an opportunity, before development consent for the project is granted, to forward to the competent authority in the relevant EEA State, within a reasonable time, their opinion on the information supplied; and
- (c) so far as they have received such information, notify those authorities and the public concerned of the content of any decision of the competent authority of the relevant EEA state; and in particular—
 - (i) any conditions attached to it;
 - (ii) the main reasons and considerations on which the decision was based including, if relevant, information about the participation of the public; and
 - (iii) a description of the main measures to avoid, reduce and if possible, offset the major adverse affects that have been identified.”.

(6) For regulation 61 (confidentiality) substitute—

“Confidentiality

61. Any person required to provide information under this Part shall not be required to provide information which—

- (a) in relation to a person to which the Environmental Information (Scotland) Regulations 2004(18) apply, the person may refuse to disclose under regulation 10 of those Regulations or is prevented from disclosing by regulation 11 of those Regulations; and

(b) in relation to a person to which the Environmental Information Regulations 2004⁽¹⁹⁾ apply, the person may refuse to disclose under regulation 12 of those Regulations or is prevented from disclosing by regulation 13 of those Regulations.”.

(7) In regulation 62(1) (charges) for “an environmental statement” in both places where it occurs substitute “any documents”.

(8) After regulation 62 (charges) insert–

“Access to review procedure before a court

62A. Any non-governmental organisation promoting environmental protection and meeting any requirements under the law shall be deemed to have an interest for the purposes of Article 10a(a) of the Directive and rights capable of being impaired for the purposes of Article 10a(b) of the Directive.”.

Commencement Information

I4 [Reg. 4](#) in force at 1.2.2007, see [reg. 1](#)

PART III

ROADS AND BRIDGES

Amendment to Roads (Scotland) Act 1984

5. The Roads (Scotland) Act 1984⁽²⁰⁾ is amended in accordance with this Part.

6.—(1) In section 20A (environmental assessment of certain road construction projects)⁽²¹⁾–

(a) in subsection (2) for “publish an environmental statement” substitute “prepare an environmental statement and publish notice of it in accordance with subsections (5) and (5A) and paragraph 7(1C) or 13(1C) as the case may be of Schedule 1 to this Act”;

(b) omit subsection (4);

(c) in subsection (5)–

(i) for “any” where it first occurs substitute “notice of the”;

(ii) for “3” substitute “6”; and

(iii) after “publication” insert “of notice”;

(d) after subsection (5) insert–

“(5A) The notice must state–

(a) that the Scottish Ministers, as the relevant roads authority, are considering implementing the project;

(b) the proposed location and nature of the project;

(c) that the project is subject to the environmental impact assessment procedure prescribed by this section and, where relevant, that section 20B applies;

⁽¹⁹⁾ S.I. 2004/3391.

⁽²⁰⁾ 1984 c. 54.

⁽²¹⁾ Section 20A was inserted by S.S.I. 1999/1.

- (d) that a copy of the environmental statement may be inspected at an address in the area in which the project is proposed to be situated during the period specified under paragraph (i);
 - (e) the times at which the copy of the environmental statement can be so inspected;
 - (f) an address from which copies of the environmental statement may be obtained and from which further information about the project may be requested during the period specified under paragraph (i);
 - (g) if a charge is to be made for a copy of the environmental statement, the amount of the charge;
 - (h) where the Scottish Ministers use a website for the purpose of giving information to the public about projects of a category into which the project in question falls, the address of the website where a copy of the environmental statement will be available for inspection by the public during the period specified under paragraph (i);
 - (i) that any person wishing to make any representations about the project and the environmental statement may do so in writing to the Scottish Ministers at a specified address within a specified period, being a period of not less than 42 days commencing with the date of publication of the notice; and
 - (j) that the Scottish Ministers will take into consideration any representations so made before deciding whether or not to proceed with the project with or without modifications.
- (5B) The Scottish Ministers shall ensure that during the period specified under subsection (5A)(i)–
- (a) copies of the environmental statement are available for inspection by any person free of charge at all reasonable hours at the address specified under subsection (5A)(d);
 - (b) copies of the environmental statement are available to be obtained by any person from the address specified under subsection (5A)(f); and
 - (c) where the Scottish Ministers use a website for the purpose of giving information to the public about projects of a category into which the project in question falls, a copy of the environmental statement is available for inspection on that website.
- (5C) A reasonable charge reflecting the costs of printing, copying and distribution may be made by the Scottish Ministers for the supply of a copy of the environmental statement–
- (a) to a person other than a consultation body; or
 - (b) to a consultation body to which one copy has already been supplied free of charge.
- (5D) Where the Scottish Ministers obtain further information relating to the environmental statement and such further information is reasonably required to give proper consideration to the likely environmental effects of the proposed project, except insofar as such further information is required for the purposes of an inquiry held under section 139, subsections (5), (5A), (5B), and (5C) shall apply to such further information as they apply to an environmental statement (subject to any necessary modifications).”;
- (e) in subsection (6) omit “published details of the”; and
 - (f) in subsection (9)–
 - (i) after “20B of” insert “and paragraphs 7 and 13 of Schedule 1 to”; and

- (ii) in the definition of “Directive” after “Council Directive No.97/11/EC” insert “and Council Directive No. 2003/35/EC”.
- (2) In section 20B (projects with significant transboundary effects)(**22**)–
- (a) in subsection (4) omit the word “and” at the end of paragraph (a) and for paragraph (b) substitute–
- “(b) the information required by subsection (5A) of section 20A to be included in the notice under subsection (5) of that section; and
- (c) any information about the environmental impact assessment procedure under this Part of this Act which they consider it appropriate to give and has not already been given to the EEA State.”;
- (b) for subsection (7) substitute–
- “(7) Where an EEA State has been consulted in accordance with subsection (4) above, the Scottish Ministers must, after deciding whether to proceed with the project to which the environmental assessment relates, inform the EEA State of the decision and give it copies of the documents containing the matters referred to in paragraph 7(1B) or 13(1B) as the case may be of Schedule 1 to this Act.”; and
- (c) in subsection (8) after “section” insert “and in paragraphs 7(1A) and 13(1A) of Schedule 1 to this Act”.
- (3) In section 55A (environmental assessment of certain road improvement projects)(**23**)–
- (a) in subsection (2) for “publish an environmental statement” substitute “prepare an environmental statement and publish notice of it in accordance with subsections (5) and (5A) and paragraph 7(1C) or 13(1C) as the case may be of Schedule 1 to this Act”;
- (b) omit subsection (4);
- (c) in subsection (5)–
- (i) for “any” where it first occurs substitute “notice of the”;
- (ii) for “3” substitute “6”; and
- (iii) after “publication” insert “of notice”;
- (d) after subsection (5) insert–
- “(5A) The notice must state–
- (a) that the Scottish Ministers, as the relevant roads authority, are considering implementing the project;
- (b) the proposed location and nature of the project;
- (c) that the project is subject to the environmental impact assessment procedure prescribed by this section and, where relevant, that section 20B applies;
- (d) that a copy of the environmental statement may be inspected at an address in the area in which the project is proposed to be situated during the period specified under paragraph (i);
- (e) the times at which the copy of the environmental statement can be so inspected;
- (f) an address from which copies of the environmental statement may be obtained and from which further information about the project may be requested during the period specified under paragraph (i);

(22) Section 20B was inserted by regulation 49 of S.S.I. 1999/1.

(23) Section 55A was inserted by regulation 50 of S.S.I. 1999/1.

- (g) if a charge is to be made for a copy of the environmental statement, the amount of the charge;
 - (h) where the Scottish Ministers use a website for the purpose of giving information to the public about projects of a category into which the project in question falls, the address of the website where a copy of the environmental statement will be available for inspection by the public during the period specified under paragraph (i);
 - (i) that any person wishing to make any representations about the project and the environmental statement may do so in writing to the Scottish Ministers at a specified address within a specified period, being a period of not less than 42 days commencing with the date of publication of the notice; and
 - (j) that the Scottish Ministers will take into consideration any representations so made before deciding whether or not to proceed with the project with or without modifications.
- (5B) The Scottish Ministers shall ensure that during the period referred to in subsection (5A)(i)–
- (a) copies of the environmental statement are available for inspection by any person free of charge at all reasonable hours at the address specified under subsection (5A)(d);
 - (b) copies of the environmental statement are available to be obtained from the address specified under subsection (5A)(f); and
 - (c) where the Scottish Ministers use a website for the purpose of giving information to the public about projects of a category into which the project in question falls, a copy of the environmental statement is available for inspection on that website.
- (5C) A reasonable charge reflecting the costs of printing, copying and distribution may be made by the Scottish Ministers for the supply of a copy of the environmental statement–
- (a) to a person other than a consultation body; or
 - (b) to a consultation body to which one copy has already been supplied free of charge.
- (5D) Where the Scottish Ministers obtain further information relating to the environmental statement and such further information is reasonably required to give proper consideration to the likely environmental effects of the proposed project, except insofar as such further information is required for the purposes of an inquiry held under section 139, subsections (5), (5A), (5B), and (5C) shall apply to such further information as they apply to an environmental statement (subject to any necessary modifications).”; and
- (e) in subsection (6) omit “published details of the”.
- (4) Section 151(1) (interpretation)(**24**) shall be amended as follows–
- (a) in the definition of “consultation bodies” omit “and” at the end of paragraph (c), insert “and” at the end of paragraph (d) and after that paragraph insert–
 - “(e) other bodies designated by statutory provision as having specific environmental responsibilities;”; and
 - (b) in the definition of “environmental impact assessment” after “Council Directive No. 97/11/EC” insert “and Council Directive No 2003/35/EC”.
- (5) Schedule 1 shall be amended in each of paragraphs 7 and 13(**25**) as follows–

(24) Relevant amendments were made by S.S.I. 1999/1.

(25) Relevant amendments were made by S.S.I. 1999/1.

- (a) in sub-paragraph (1A) omit the word “and” at the end of paragraph (a) and for paragraph (b) substitute–
- “(b) any opinion on that statement or the project which is expressed in writing by any of the consultation bodies or by any other person and is received by the Scottish Ministers within any period specified for the purpose by them; and
- (c) where section 20B applies and the EEA State has indicated in accordance with subsection (4) of that section that it wishes to participate in the environmental impact assessment procedure, any opinion on that statement or the project which is expressed in writing by the EEA State, by a member of the public in the EEA State or by any of the authorities referred to in Article 6(1) of the Directive and is received by the Scottish Ministers within any period specified for the purpose by them.”;
- (b) in sub-paragraph (1B)–
- (i) after “and shall” insert “notify the consultation bodies and”;
- (ii) in head (b) after “is based” insert “including, if relevant, information about the participation of the public and details of how information, evidence and representations submitted were taken into account”; and
- (iii) omit the word “and” at the end of head (b) and after that head insert–
- “(bb) information regarding the right to challenge the validity of the decision and the procedures for doing so; and”;
- (c) in sub-paragraph (1C) after “situated” insert “and where the Scottish Ministers use a website for the purpose of giving information to the public about projects of a category into which the project in question falls, by publication on that website”; and
- (d) after sub-paragraph (1C) insert–
- “(1D) Any non-governmental organisation promoting environmental protection and meeting any requirements under the law shall be deemed to have an interest for the purposes of Article 10a(a) of the Directive and rights capable of being impaired for the purposes of Article 10a(b) of the Directive.”.

Commencement Information

- I5** [Reg. 5](#) in force at 1.2.2007, see [reg. 1](#)
- I6** [Reg. 6](#) in force at 1.2.2007, see [reg. 1](#)

Transitional provisions

- 7.—(1) This Part of the Regulations shall not apply to a project–
- (a) for which the Scottish Ministers had published an environmental statement before the date on which they came into force (“the commencement date”) but for which no draft order or scheme was published;
- (b) in relation to which a draft order or scheme was published before the commencement date; or
- (c) where a draft order or scheme was not required and for which the works contract had been entered into before that date.
- (2) In this regulation–

“draft order or scheme” means any draft order or scheme to which Schedule 1 to the Roads (Scotland) Act 1984 applies or any compulsory purchase order made under powers conferred by that Act; and

“works contract” means a contract for a road construction or improvement project.

Commencement Information

17 [Reg. 7](#) in force at 1.2.2007, see [reg. 1](#)

PART IV

MARINE FISH FARMS

Amendment to the Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations 1999

8. The Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations 1999⁽²⁶⁾ are amended in accordance with this Part.

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

(a) at the end of the definition of “the Directive” insert “and Council Directive [2003/35/EC](#)”⁽²⁷⁾; and

(b) in the definition of “sensitive area”—

(i) in paragraph (g) omit “as a natural heritage area by a direction made by the Secretary of State under section 6(2) of the Natural Heritage (Scotland) Act 1991”; and

(ii) at the end of paragraph (j) omit “and” and insert—

“(k) a National Park as defined by section 35(1) of the National Parks (Scotland) Act 2004;

(l) land notified under sections 3(1) or 5(1) (sites of special scientific interest) of the Nature Conservation (Scotland) Act 2004; and

(m) land in respect of which an order has been made under section 23 (nature conservation orders) of the Nature Conservation (Scotland) Act 2004.”.

(2) For regulation 8 (publicity where an environmental statement is submitted) substitute—

“Publicity where an environmental statement is received

8.—(1) Where the relevant authority receive an environmental statement relating to an application to which the prohibition in regulation 3 applies, they shall—

(a) publish as soon as possible in a local newspaper circulating in the locality in which the proposed development is to be situated and in the Edinburgh Gazette a notice stating—

(i) that copies of the application, environmental statement and the reports and advice referred to in Article 6(3)(b) of the Directive may be inspected in—

⁽²⁶⁾ S.I. 1999/367.

⁽²⁷⁾ O.J. No. L 156, 25.6.2003, p17.

- (aa) a specified office of the relevant authority, being an office of the relevant authority in the locality nearest to the proposed development; and
 - (bb) a specified Post Office being a Post Office in the locality nearest to the proposed development,
- during the period of 28 days after the first publication of the said notice;
- (ii) the address at which copies of the application and the environmental statement may be obtained;
 - (iii) the cost of a copy of the environmental statement;
 - (iv) that representations may be made to the relevant authority, at the office referred to in paragraph (1)(a)(i), within the period specified in paragraph (1)(a); and
 - (v) the nature of the possible decisions;
- (b) prior to the first publication of the notice referred to in paragraph (1)(a)–
 - (i) make available in the office of the relevant authority referred to in paragraph (1)(a)(i); and
 - (ii) send to the Post Office referred to in paragraph (1)(a)(ii),
 the documents referred to in paragraph (1)(a).
- (2) Where the relevant authority are required to publish a notice in a local newspaper and the Edinburgh Gazette in accordance with paragraph (1), the applicant shall pay the cost to be incurred by the relevant authority in arranging such advertisement at the time of submitting his statement.”.
- (3) After regulation 10 (further information and evidence relating to environmental statements) insert–

“Publicity where further relevant information received

10A.—(1) Where the relevant authority receive further information whether under regulation 10 or otherwise, relevant for the decision to which the prohibition in regulation 3 applies they shall–

- (a) publish as soon as possible in a local newspaper circulating in the locality in which the proposed development is to be situated and in the Edinburgh Gazette a notice stating–
 - (i) that the further information may be inspected in–
 - (aa) a specified office of the relevant authority, being an office of the relevant authority in the locality nearest to the proposed development; and
 - (bb) a specified Post Office being a Post Office in the locality nearest to the proposed development,
 during the period of 28 days after the first publication of the said notice; and
 - (ii) that representations may be made to the relevant authority, at the office referred to in paragraph (1)(a)(i), within the period specified in paragraph (1)(a); and
- (b) prior to the first publication of the notice referred to in paragraph (1)(a)–
 - (i) make available in the office of the relevant authority specified in the said notice; and
 - (ii) send to the Post Office specified in the said notice,

the further information received.

(2) Where the relevant authority are required to publish a notice in a local newspaper and the Edinburgh Gazette in accordance with paragraph (1) the applicant shall pay the cost to be incurred by the relevant authority in arranging such advertisement.”

(4) In regulation 11 (intimation of decision)–

(a) at the end of paragraph (c)(ii) omit “; and” and insert “including, if relevant, details of how information, evidence and representations submitted were taken into account; and”; and

(b) after paragraph (c)(iii) insert–

“and

(iv) information regarding the right to challenge the validity of the decision and the procedures for doing so.”.

(5) After regulation 14 (charges) insert–

“Access to review procedure before a court

14A. Any non-governmental organisation promoting environmental protection and meeting any requirements under the law shall be deemed to have an interest for the purposes of Article 10a(a) of the Directive and rights capable of being impaired for the purposes of Article 10a(b) of the Directive.”.

(6) In regulation 15(3) (development in Great Britain likely to have significant effects in another Member State) after sub-paragraph (b) insert–

“(bb) a copy of the notice referred to in regulation 8(1);

(bbb) copies of the information referred to in Article 6(3)(b) of the Directive;

(bbbb) copies of the information referred to in regulation 10A.”.

(7) After regulation 15 (developments in Great Britain likely to have significant effects in another Member State) insert–

“Development in another Member State likely to have significant effects in Scotland

15A.—(1) Where the Scottish Ministers receive from another Member State pursuant to Article 7(2) of the Directive information which that Member State has gathered from the developer of a proposed project in that Member State which is likely to have significant effects on the environment in Scotland, the Scottish Ministers shall, in accordance with Article 7(4) of the Directive–

(a) enter into consultations with that Member State regarding, inter alia, the potential significant effects of the proposed project on the environment in Scotland and the measures envisaged to reduce or eliminate such effects; and

(b) determine in agreement with that Member State a reasonable period, before development consent for the project is granted, during which the public concerned in Scotland may submit to the competent authority in that Member State representations pursuant to Article 7(3)(b) of the Directive.

(2) The Scottish Ministers, insofar as they are concerned, shall also–

(a) arrange for the information referred to in paragraph (1) to be made available, within a reasonable time, both to the authorities in Scotland which they consider are likely to be concerned by the project by reason of their specific environmental responsibilities, and to the public concerned in Scotland;

- (b) ensure that those authorities and the public concerned in Scotland are given an opportunity, before development consent for the project is granted, to forward to the competent authority in the relevant Member State, within a reasonable time, their opinion on the information supplied; and
 - (c) so far as they have received such information, notify those authorities and the public concerned of the content of any decision of the competent authority of the relevant Member State; and in particular–
 - (i) any conditions attached to it;
 - (ii) the main reasons and considerations on which the decision was based; and
 - (iii) a description of the main measures to avoid, reduce and if possible, offset the major adverse effects that have been identified.”.
- (8) At the end of Schedule 3 (bodies to be consulted) insert–
- “5. Any other body designated by statutory provision as having specific environmental responsibilities.”.

Commencement Information

- 18** Reg. 8 in force at 1.2.2007, see [reg. 1](#)
- 19** Reg. 9 in force at 1.2.2007, see [reg. 1](#)

PART V

FORESTRY

Amendment to the Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999

10. The Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999⁽²⁸⁾ are amended in accordance with this Part.

11.—(1) In regulation 2(1) (interpretation)–

- (a) in the definition of “countryside body”, after “1995” insert “and any other body designated by statutory provision as having specific environmental responsibilities”; and
- (b) at the end of the definition of “the Directive” add “and Council Directive [2003/35/EC](#)⁽²⁹⁾”.

(2) In regulation 4 (restriction on relevant projects) after paragraph (4) insert–

“(5) Where a direction is made under paragraph (2), the Commissioners shall–

- (a) consider whether another form of assessment would be appropriate; and
- (b) where they do, take such steps as they consider appropriate to bring the information obtained under it to the attention of the public concerned.”.

(3) In regulation 12 (assistance in preparation of environmental statements) for paragraph (2) substitute–

⁽²⁸⁾ S.S.I. 1999/43.

⁽²⁹⁾ O.J. No. L 156, 25.6.2003, p.21.

- “(2) In relation to a person to which the Environmental Information (Scotland) Regulations 2004(30) apply, paragraph (1) shall not require disclosure of information which the person—
- (a) may refuse to disclose under regulation 10(1) of those Regulations; or
 - (b) is prevented from disclosing by regulation 11(1) of those Regulations.
- (2A) In relation to a person to which the Environmental Information Regulations 2004(31) apply, paragraph (1) shall not require disclosure of information which the person—
- (a) may refuse to disclose under regulation 12(1) of those Regulations; or
 - (b) is prevented from disclosing by regulation 13 (1) of those Regulations.”.

(4) In regulation 13 (publicity)—

 - (a) in paragraph (1) for “under regulation 11 shall publish” substitute “in relation to that application, whether under regulation 11 or otherwise, shall publish”;
 - (b) in paragraph (1)(a) for “the information provided under regulation 11” substitute “the further information”;
 - (c) after paragraph (2)(a) insert—
 - “(aa) state, in relation to an application, that the Commissioners may decide either—
 - (i) to grant consent either subject only to the conditions required by regulation 18 or also subject to such further conditions as they see fit: or
 - (ii) to refuse consent.”; and
 - (d) in paragraph (3) omit “under regulation 11”.

(5) In regulation 14 (information for another EEA State)—

 - (a) in paragraph (5)(a) after “of this regulation” insert “and any further information provided by the applicant in relation to the application for consent”; and
 - (b) at the end of paragraph (5)(b) add “under sub-paragraph (a).”.

(6) In regulation 19 (application to the court by person aggrieved), after paragraph (1) insert—

“(1A) Any non-governmental organisation promoting environmental protection and meeting any requirements under the law shall be deemed to have an interest for the purposes of Article 10a(a) of the Directive and rights capable of being impaired for the purposes of Article 10a(b) of the Directive.”.

(7) In regulation 24 (registers of opinions, directions, determinations etc. for public inspection), in paragraph 1(c) after “regulation 7(7)” insert “or (8)(a)”.

(8) In paragraph 1 of Schedule 2 (definition of “sensitive area”)—

 - (a) for paragraphs (a) and (b) substitute—
 - “(a) land notified under section 3(1) or 5(1) (sites of special scientific interest) of the Nature Conservation (Scotland) Act 2004(32);
 - (b) land in respect of which an order has been made under section 23 (nature conservation orders) of the Nature Conservation (Scotland) Act 2004.”;
 - (b) in paragraph (e) omit “as a Natural Heritage Area by a direction made by the Secretary of State or the Scottish Ministers under section 6(2) of the Natural Heritage (Scotland) Act 1991 or”; and
 - (c) after paragraph (f) insert—

(30) S.S.I 2004/520.

(31) S.I. 2004/3391.

(32) 2004 asp 6.

“(g) an area designated as a National Park by a designation order made by the Scottish Ministers under section 6(1) of the National Parks (Scotland) Act 2000(33);”.

Commencement Information

I10 Reg. 10 in force at 1.2.2007, see [reg. 1](#)

I11 Reg. 11 in force at 1.2.2007, see [reg. 1](#)

PART VI

AGRICULTURE

Amendment to the Environmental Impact Assessment (Agriculture) (Scotland) Regulations 2006

12. The Environmental Impact Assessment (Agriculture) (Scotland) Regulations 2006(34) are amended in accordance with this Part.

13.—(1) In regulation 14(5) for “the Environmental Impact Assessment (Agriculture) (England) Regulations 2006”, substitute “the Environmental Impact Assessment (Agriculture) (England) (No. 2) Regulations 2006(35)”.

(2) In regulation 28(3)(a) after “relates” insert “and take the measures”.

Commencement Information

I12 Reg. 12 in force at 1.2.2007, see [reg. 1](#)

I13 Reg. 13 in force at 1.2.2007, see [reg. 1](#)

St Andrew’s House,
Edinburgh
21st December 2006

D McNULTY
Authorised to sign by the Scottish Ministers

(33) 2000 asp 10.

(34) S.S.I. 2006/582.

(35) S.I. 2006/2522.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 2(2) of the European Communities Act 1972 and section 40 of the Town and Country Planning (Scotland) Act 1997. They implement in Scotland the amendments made by Article 3 of Council Directive [2003/35/EC](#) (the 2003 Directive) (O.J. L 156,25.6.03, p.17-24) with regard to public participation and access to justice to Council Directive [85/337/EEC](#) (the PPD) (O.J. L 175, 5.7.1985, p.40). The following Regulations and Act are amended in the following Parts of the Regulations:

Part II – The Environmental Impact Assessment (Scotland) Regulations 1999 (“the 1999 Regulations”);

Part III – The Roads (Scotland) Act 1984;

Part IV – The Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations; and

Part V – The Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999

Part II of the Regulations provides for certain amendments to the 1999 Regulations.

Regulation 3 deals with amendments to Part II of the 1999 Regulations in respect of Town and Country Planning as follows:

Regulation 3(1) amends regulation 2 of the 1999 Regulations regarding interpretation including the insertion of a definition of “any other information”. This is to meet the requirement inserted by Article 3 of the 2003 Directive that any further information provided by the applicant or the appellant as the case may be which becomes available after the initial gathering of information for an environmental statement has taken place will also require to be publicised. The definition of consultation bodies is extended to include bodies designated by statutory provision as having specific environmental responsibilities and which are considered likely to have an interest in the application. The definition of “exempt development” is amended to omit developments which are or form part of projects serving national defence purposes. Such developments and the power to exempt them from the requirements of the regulations are now covered by a UK wide provision in regulation 22 of the Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2006 (S.I.2006/3295). The definition of “sensitive area” is updated to include sites of special scientific interest and nature conservation orders. The definition of “Directive” is also updated.

Regulation 3(2) inserts a new regulation 4(4) into the 1999 Regulations in respect of directions the Scottish Ministers can make regarding exempt developments. This requires the Scottish Ministers to make available the information considered and their reasons for the decision to exempt.

Regulation 3(3) amends regulation 12 (procedure to facilitate preparation of environmental statements) to include references to the Environmental Information (Scotland) Regulations 2004 and the Environmental Information Regulations 2004.

Regulation 3(5) inserts a new regulation 19 (2A) so that regulation 19(2) applies in relation to any other information (as defined in the amendments made to regulation 2) as it applies to further information. This is so that the requirements for publicity and consultation contained in regulations 14 to 16 and 18 of the 1999 Regulations apply.

Regulation 3(12) inserts a new regulation 46A into the 1999 regulations to extend the additional access to justice requirements inserted by Article 3 of the 2003 Directive to environmental non governmental organisations.

Regulation 3(13) adds a further paragraph to Schedule I of the 1999 Regulations so that where a change or extension would fall within one of the categories listed in that Schedule that change or extension also constitutes a Schedule I development.

Regulation 3(15) inserts changes into the notice prescribed by Schedule 5 so as to comply with the requirements of the changes inserted by Article 3 of the 2003 Directive which require that the public be informed of the types of decisions that can be made.

Part II of the Regulations at regulation 4 amends Part IV of the 1999 Regulations in relation to drainage works as follows:

Regulation 4(1) inserts in regulation 55 of the 1999 Regulations definitions of “environmental information” and “further information”. It also omits the definition of “sites of scientific interest” in regulation 55 of the 1999 Regulations and a new definition, “sensitive area”, is inserted in its place. The effect of this is to specify additional types of areas which will require an environmental statement to be submitted along with an application for an improvement order under section 1 of the Land Drainage (Scotland) Act 1958 (c. 24) (“the 1958 Act”) in accordance with regulation 59 of the 1999 Regulations. Sites of special scientific interest, sites subject to a nature conservation order, European Sites, National Scenic Areas and National Parks are included in the definition of “sensitive area”. Regulation 4(2) inserts a definition of “the Directive”.

Regulation 4(3) amends regulation 59(2) of the 1999 Regulations to add to the information which the Scottish Ministers are required to notify and publish in terms of that Regulation.

Regulation 4(4) amends regulation 60 of the 1999 Regulations to include a requirement on the Scottish Ministers to publicise specified further information relating to the application for an improvement order in the same manner as they are required to publicise the draft improvement order under the 1958 Act.

Regulation 4(5) inserts Regulations 60A, 60B and 60C into the 1999 Regulations. Regulation 60A requires the Scottish Ministers to publicise their decision in relation to an application for an improvement order and make available a statement giving information including the main reasons for the decision. Regulation 60B provides in relation to applications for improvement orders which are likely to have significant environmental effects in another EEA State. Regulation 60C sets out what the Scottish Ministers are required to do in relation to projects in other EEA states likely to have significant effects on the environment in Scotland.

Regulation 4(6) inserts a new regulation 61 into the 1999 Regulations to provide in relation to confidentiality.

Regulation 4(8) inserts a new regulation 62A into the 1999 Regulations to extend the additional access to justice requirements inserted by Article 3 of the 2003 Directive to environmental non governmental organisations.

Part III of the Regulations make amendments to the Roads (Scotland) Act 1984 (“the 1984 Act”) to amend the procedures for publication and notification of information on the likely environmental effects of certain trunk road projects.

Regulation 6(1) amends section 20A of the 1984 Act. The amended section 20A requires the Scottish Ministers, when they have under consideration the construction of a new road which is to be subject to an environmental impact assessment, to prepare an environmental statement and publish notice of it. The new section 20A(5A) sets out the information to be contained in the notice and section 20A(5B) requires Scottish Ministers to make copies of the environmental statement available for inspection free of charge and to supply copies on request, subject to a reasonable charge in certain cases.

Regulation 6(2) amends section 20B of the 1984 Act which provides for consultation between EEA States where a project is likely to have significant effects on the environment in another EEA State. The amendment to section 20B(4) requires the Scottish Ministers in these circumstances to provide a relevant EEA State with all the information in the notice prescribed by section 20A(5B).

Regulation 6(3) amends section 55A of the 1984 Act, to require the same notification procedures in respect of improvements to trunk roads, as are required by the amended section 20A in respect of construction of new trunk roads.

Regulation 6(4) amends section 151 of the 1984 Act regarding interpretation.

Regulation 6(5) amends paragraph 7 (in respect of road orders) and paragraph 13 (in respect of road schemes) of Schedule 1 to the 1984 Act so that Scottish Ministers are required, in cases where they have published an environmental statement, to take into account written representations on the environmental statement before making their decision as to whether to proceed with the project. When publishing their decision the Scottish Ministers should notify consultation bodies and, if relevant, publish information about the participation of the public and how their views were taken into account. The published notice should also contain information as to how the decision of the Scottish Ministers may be challenged. Regulation 6(5) also inserts new paragraphs 7(1D) and 13(1D) of Schedule 1 to extend the additional access to justice requirements inserted by Article 3 of the 2003 Directive to environmental non-governmental organisations.

Regulation 7 specifies that the provisions of this Part do not apply in relation to projects where relevant procedures have been commenced before these Regulations come into force.

Part IV amends the Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations 1999 (“the Fish Farming in Marine Waters Regulations”) as follows.

Regulation 9(1) amends regulation 2 of the Fish Farming in Marine Waters Regulations, updating the definition of “the Directive” and revising the definition of “sensitive area”.

Regulation 9(2) substitutes regulation 8 of the Fish Farming in Marine Waters Regulations. New regulation 8 provides that the relevant authority (defined in regulation 2 of the Fish Farming in Marine Waters Regulations) shall make available for public inspection the application (of a type specified in regulation 1(3), for a development of the kind referred to in regulation 1(2), of the Fish Farming in Marine Waters Regulations), environmental statement, and other reports and advice for a period of 28 days, with the opportunity for representations to be made within that period. The making available of these documents shall be publicised through press advertisement (new regulation 8(1) (a)). The applicant is responsible for the costs incurred by the relevant authority in arranging such advertisement (new regulation 8(2)).

Regulation 9(3) inserts new regulation 10A into the Fish Farming in Marine Waters Regulations. New regulation 10A provides that where the relevant authority receives further information relevant for the decision it is to make it shall make available for public inspection that further information for a period of 28 days, with the opportunity for representations to be made within that period. The making available of that further information shall be publicised through press advertisement (new regulation 10A(1)(a)). The applicant is responsible for the costs incurred by the relevant authority in arranging such advertisement (new regulation 10A(2)).

Regulation 9(4) amends regulation 11 of the Fish Farming in Marine Waters Regulations to provide for the inclusion of the information referred to in regulation 9(5) in any intimation of a decision under regulation 11 of the Fish Farming in Marine Waters Regulations.

Regulation 9(5) inserts new regulation 14A into the Fish Farming in Marine Waters Regulations to extend the additional access to justice requirements inserted by Article 3 of the 2003 Directive to environmental non-governmental organisations.

Regulation 9(6) amends regulation 15(3) of the Fish Farming in Marine Waters Regulations to provide that where a Member State is sent the information set out in that regulation it shall also be sent the information specified in regulation 9(4).

Regulation 9(7) inserts new regulation 15A into the Fish Farming in Marine Waters Regulations. New regulation 15A provides for consultation between the Scottish Ministers and other Member States where a development in that Member State is likely to have significant effects in Scotland.

Part V amends the Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999 (“The Forestry Regulations”) as follows:

Regulation 11(1) amends regulation 2(1) of the Forestry Regulations, extending the definition of “countryside body” to include bodies designated by statutory provision as having specific environmental responsibilities and updating the definition of “the Directive” (that is, Council Directive [85/337/EEC](#)).

Regulation 11(2) amends regulation 4 of the Forestry Regulations so as to require the Forestry Commissioners, where they direct that a particular project is exempted from the application of those regulations, to consider whether another form of assessment would be appropriate and to take such steps as they consider appropriate to bring the information obtained under it to the attention of the public.

Regulation 11(3) amends regulation 12 of the Forestry Regulations to substitute appropriate references to the Environmental Information (Scotland) Regulations 2004 and the Environmental Information Regulations 2004 for the existing reference to the Environmental Information Regulations 1992 (now repealed).

Regulation 11(4) amends regulation 13 of the Forestry Regulations to require an applicant for consent under regulation 10 to publish a notice in relation to any further information supplied to the Commissioners in relation to the application (and not merely further information which is required by the Commissioners in terms of regulation 11), and to include in the notice of an application a statement of the nature of the possible decisions to be taken in relation to that application.

Regulation 11(5) amends regulation 14 of the Forestry Regulations to require that any further information supplied by the applicant be made available to a relevant EEA State.

Regulation 11(6) amends regulation 19 of the Forestry Regulations by inserting a provision to extend the additional access to justice requirements inserted by Article 3 of the 2003 Directive to environmental non-governmental organisations.

Regulation 11(7) amends regulation 24 of the Forestry Regulations to require that the register kept by the Commissioners for public inspection include a copy of any direction given by the Scottish Ministers in terms of regulation 7(8)(a) of those regulations.

Regulation 11(8) amends the definition of “sensitive area” in paragraph 1 of Schedule 2 to include an area designated as a National Park in terms of section 6(1) of the National Parks (Scotland) Act 2000 and to replace references to provisions of the Wildlife and Countryside Act 1981 which have been repealed by the Nature Conservation (Scotland) Act 2004 with references to the corresponding provisions of the latter Act.

Part VI of the Regulations provides for certain amendments to the Environmental Impact Assessment (Agriculture) (Scotland) Regulations 2006 (“the 2006 Regulations”).

Regulation 13(1) corrects a reference in regulation 14(5) of the 2006 Regulations.

Regulation 13(2) corrects an omission in regulation 28(3)(a) of the 2006 Regulations to allow persons authorised by the Scottish Ministers to carry out re-instatement works in the event of them not being carried out as required by a notice served under the 2006 Regulations.

Changes to legislation:

There are currently no known outstanding effects for the The Environmental Impact Assessment (Scotland) Amendment Regulations 2006.