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SCOTTISH STATUTORY INSTRUMENTS

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**2017 No. 102**

**The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017**

**PART 12**

**Amendments Revocations and Transitional Provisions**

**Amendment of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992**

**56.**—(1) Article 3 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992<sup>(1)</sup> is amended in accordance with paragraphs (2) to (6).

(2) In paragraph (8) for “the Environmental Impact Assessment (Scotland) Regulations 2011” substitute “the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017”.

(3) In paragraphs (8)(a), (8A), (8B), (8C) and (9)(a), for “regulation 6”, in every place where those words occur, substitute “regulation 8”.

(4) In paragraphs (8)(b), (8A)(b)(i), (8B)(b) and (9)(a), for “regulation 5(10) or 7(4)” substitute “regulation 7(4) or 10”.

(5) In paragraphs (8)(c) and (9)(a), for “regulation 5(4)” substitute “regulation 6(4) or (6)”.

(6) In paragraph (9)(b), for “regulation 5(10) or (11), 7(4) or 45” substitute “regulation 7(4), 10 or 50”.

**Amendment of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013**

**57.**—(1) The Development Management Procedure Regulations<sup>(2)</sup> are amended in accordance with paragraphs (2) to (4).

(2) In regulation 3 (interpretation)—

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

““EIA report” has the same meaning as in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017;”;

(b) in the definition of “environmental statement” after “2011” insert “as those Regulations had effect on 15th May 2017”.

(3) In regulation 5(2) (content of pre-application screening notice) for “2011” substitute “2017”.

(4) In Schedule 2 (registers under section 36(1))—

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(1) [S.I. 1992/223](#) as relevantly amended by [S.S.I. 1999/1](#) and [S.S.I. 2011/139](#).

(2) [S.S.I. 2013/155](#).

- (a) in paragraph 3(b) and in paragraph 4(c)(i) after “environmental statement” insert “or EIA report”;
- (b) in paragraph 3(f) for “9(4)” substitute “12(5)” and for “2011” substitute “2017”; and
- (c) in paragraph 4(e) for “regulation 5(11) or 45” substitute “regulation 50” and for “2011” substitute “2017”.

#### **Amendment of the Town and Country Planning (Appeals) (Scotland) Regulations 2013**

**58.**—(1) The Town and Country Planning (Appeals) (Scotland) Regulations 2013(3) are amended in accordance with paragraph (2).

(2) In regulation 2 (interpretation)—

- (a) in the definition of “application for multi-stage consent” for “2011” substitute “2017”;
- (b) for the definition of “EIA development” and “environmental statement” substitute—
  - ““EIA development” and “EIA report” have the same meaning as in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017;
  - “environmental statement” has the same meaning as in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011(4) as those Regulations had effect on 15th May 2017;”;
- (c) in the definition of “validation date”, in paragraph (a)(ii) for “environmental statement” substitute “EIA report or environmental statement, as the case may be,”.

#### **Amendment of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013**

**59.**—(1) The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013(5) are amended in accordance with paragraph (2).

(2) In regulation 2 (interpretation)—

- (a) in the definition of “application for multi-stage consent” for “2011” substitute “2017”;
- (b) for the definition of “EIA development” and “environmental statement” substitute—
  - ““EIA development” and “EIA report” have the same meaning as in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017;
  - “environmental statement” has the same meaning as in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 as those Regulations had effect on 15th May 2017;”;
- (c) in the definition of “validation date”, in paragraph (a)(ii) for “environmental statement” substitute “EIA report or environmental statement, as the case may be,”.

#### **Revocations and transitional provisions**

**60.**—(1) Subject to paragraphs (2) to (4), the 2011 Regulations are revoked.

(2) The 2011 Regulations continue to have effect as they did immediately before 16th May 2017 in respect of an application for planning permission or a ROMP application, including consideration

(3) [S.S.I. 2013/156](#) as amended by [S.S.I. 2015/233](#) and [S.S.I. 2015/249](#).

(4) [S.S.I. 2011/139](#).

(5) [S.S.I. 2013/157](#) as amended by [S.S.I. 2015/249](#).

of such an application in the course of any appeal under section 47 or review under section 43A(8), where the developer has before that date—

- (a) submitted an environmental statement in connection with that application;
  - (b) requested the planning authority under regulation 14(1) of the 2011 Regulations to adopt a scoping opinion in respect of the development to which the application relates; or
  - (c) asked the Scottish Ministers under regulation 11(3) or 12(2) of the 2011 Regulations to make a scoping direction in respect of the development to which that application relates.
- (3) Where the developer has before 16th May 2017 submitted an environmental statement in connection with the development to which an application for multi-stage consent relates—
- (a) the assessment under regulation 33(2)(a) as to whether or not there are significant effects on the environment which have not previously been identified and assessed is to be undertaken by reference to the scope of the information which immediately prior to 16th May 2017 had to be included in the environmental statement in accordance with schedule 4 of the 2011 Regulations; and
  - (b) regulation 26(2) and paragraph (b) of the definition of “additional information” apply as if the reference to matters to be included in an EIA report in accordance with regulation 5(2) were a reference to the information which immediately prior to 16th May 2017 had to be included in the environmental statement in accordance with schedule 4 of the 2011 Regulations.
- (4) Parts 1 and 2 and schedules 1 to 3 of the 2011 Regulations continue to have effect in respect of—
- (a) a request for a screening opinion under regulation 6(1) of the 2011 Regulations made to the planning authority before 16th May 2017;
  - (b) a request for a screening direction pursuant to regulation 6(6) of the 2011 Regulations made to the Scottish Ministers before that date; or
  - (c) a request for a screening direction pursuant to regulation 6(6) of the 2011 Regulations made to the Scottish Ministers after that date in connection with—
    - (i) the adoption of a screening opinion by the planning authority (whether before or after that date) following a request for a screening opinion made under regulation 6(1) of the 2011 Regulations before that date; or
    - (ii) the failure of the planning authority to adopt a screening opinion following a request for a screening opinion made under regulation 6(1) of the 2011 Regulations before that date;
- (5) Where, pursuant a request referred to in paragraph (4), a screening opinion is adopted by the planning authority or screening direction is made by the Scottish Ministers in respect of a particular development, regulation 7(1) and (2) of these Regulations applies to the making of any subsequent screening direction in respect of that particular development by the Scottish Ministers under regulation 7(4) as if—
- (a) the reference in paragraphs (1)(a)(i) and (2)(a) to schedule 3 were a reference to schedule 3 of the 2011 Regulations; and
  - (b) paragraphs (1)(a)(ii) and (b) were omitted.
- (6) References in this regulation to provisions of the 2011 Regulations are references to such provisions as they had effect immediately before 16th May 2017.
- (7) These Regulations (other than this regulation) do not apply in respect of—
- (a) an application for planning permission or a ROMP application to which the 2011 Regulations continue to have effect by virtue of paragraph (2); or

(b) a request for a screening opinion mentioned in paragraph (4).

(8) References in any enactment to an environmental statement prepared, or having effect as if prepared, in accordance with the 2011 Regulations are treated as including a reference to an EIA report prepared in accordance with these Regulations.

(9) The provisions specified in column 1 of the Table in schedule 6 are revoked to the extent specified in column 3 of that Table.

(10) In this regulation—

“the 2011 Regulations” means the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011; and

“environmental statement” has the same meaning as in the 2011 Regulations.