
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 614

The Environmental Impact Assessment
(Scotland) Amendment Regulations 2006

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⁽¹⁾ 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](#)”⁽²⁾; 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—

(1) S.I.1999/367.

(2) 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.”.