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SCOTTISH STATUTORY INSTRUMENTS

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**2007 No. 484**

**The Environmental Impact Assessment  
(Scotland) Amendment Regulations 2007**

**Citation and commencement**

1. These Regulations may be cited as the Environmental Impact Assessment (Scotland) Amendment Regulations 2007 and shall come into force on 22nd November 2007.

**Amendment of the Environmental Impact Assessment (Scotland) Regulations 1999**

2. The Environmental Impact Assessment (Scotland) Regulations 1999(1) are amended in accordance with regulations 3 to 8.

**Amendment of regulation 2**

3.—(1) Regulation 2(1) (interpretation) is amended as follows.

(2) At the appropriate place according to alphabetical order insert—

““application for multi-stage consent” means an application for approval of reserved matters;”;

““outline planning permission” has the meaning given in section 59 of the Act;”;

““project” means, in relation to the consideration of an application for multi-stage consent, the development granted planning permission by the outline planning permission in respect of which such application is made, taken together with any multi stage consent previously granted in connection with such outline planning permission;”;

““reserved matters” has the meaning given in section 59 of the Act;”;

““supplementary information” has the meaning given in regulation 21E(4);”.

(3) For the definition of “any other information” substitute—

““any other information” means any other substantive information relating to any environmental statement (including a revised or updated environmental statement) and provided by the applicant or appellant as the case may be;”.

(4) In the definition of “environmental information” for “the environmental statement, including any further information” substitute—

“any environmental statement (including a revised or updated environmental statement) including any further information, supplementary information”.

**Prohibition on granting application for multi-stage consent without consideration of environmental information**

4. After regulation 3 (prohibition on granting planning permission without consideration of environmental information) insert—

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(1) S.S.I. 1999/1 as amended by S.S.I. 2002/324, S.S.I. 2003/331, S.S.I. 2004/332, S.S.I. 2006/614 and S.S.I. 2007/268. S.S.I. 2006/270 applies S.S.I. 1999/1 to the Crown with modifications.

### **“Consideration of environmental information when determining an application for multi stage consent**

**3A.—**(1) The relevant planning authority or the Scottish Ministers must not grant an application for multi stage consent in respect of EIA development unless they have first taken the environmental information into account, and they must state in their decision that they have done so.

(2) When granting an application for multi-stage consent in respect of EIA development the relevant planning authority or the Scottish Ministers may, having regard to the environmental information, impose conditions in relation to the project (whether in relation to matters arising from the application for multi-stage consent or from the outline planning permission in respect of which such application is made) for the purpose of avoiding, reducing or offsetting the effect of the project on the environment.

(3) For the purposes of paragraphs (1) and (2), “environmental information” shall in addition to any environmental information previously provided in respect of the project include—

- (a) any environmental statement or revised or updated environmental statement provided in connection with the application for multi-stage consent;
- (b) any supplementary information and any further information and any other information provided in connection with the application for multi-stage consent; and
- (c) any representations made in connection with the application for multi-stage consent 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 project.”.

### **Amendment of regulation 9**

**5.** At the end of regulation 9 (appeal to the Scottish Ministers without an environmental statement) insert—

“(6) This regulation shall not apply where regulation 21D (appeal in respect of application for multi-stage consent to the Scottish Ministers without an environmental statement) applies.”.

### **Amendment of regulation 20**

**6.** In regulation 20(1)(g) (availability of opinions, directions etc. for inspection) after “further information” insert “, supplementary information”.

### **Applications for multi-stage consent**

**7.** In Part 2 after Chapter 6 (availability of directions etc. and notification of decisions) insert—

#### *“CHAPTER 6A*

#### *APPLICATIONS FOR MULTI-STAGE CONSENT*

### **Requests for screening opinions and screening directions**

**21A.—**(1) Where a person is minded to make an application for multi-stage consent, regulations 5 (requests for screening opinions of the planning authority) and 6 (requests for screening directions of the Scottish Ministers) shall apply as if that person was a person who was minded to carry out development and the request related to the project.

(2) A screening opinion adopted by virtue of paragraph (1) shall supersede the terms of an earlier screening opinion or screening direction.

(3) A screening direction made by virtue of paragraph (1) shall supersede the terms of an earlier screening direction.

### **Application for multi-stage consent without environmental statement**

**21B.**—(1) Where—

- (a) it appears to the relevant planning authority that an application for multi-stage consent which is before them for determination relates to outline planning permission for Schedule 1 development or Schedule 2 development;
- (b) the project in question has either—
  - (i) not been the subject of a screening opinion or screening direction; or
  - (ii) been the subject of a screening opinion or screening direction to the effect that it is not EIA development; and
- (c) no statement referred to by the applicant as an environmental statement for the purposes of these Regulations accompanied either the application for outline planning permission nor the application for multi stage consent,

the relevant planning authority must adopt a screening opinion in respect of the project within three weeks beginning with the date of receipt of the application.

(2) Where that application for multi-stage consent has already been the subject of a screening opinion or screening direction under regulations 5 or 6 as applied by regulation 21A to the effect that the project to which it relates is not EIA development the planning authority shall not be required to adopt a screening opinion under paragraph (1).

(3) The authority must, if they consider they have not been provided with sufficient information to adopt an opinion, notify in writing the applicant of the points on which they require additional information.

(4) A screening opinion adopted under paragraph (1) shall supersede the terms of an earlier screening opinion or screening direction.

(5) The Scottish Ministers may make a screening direction in relation to a project to which paragraph (1)(b)(ii) applies and any such screening direction shall supersede the terms of an earlier screening direction.

(6) Where the relevant planning authority adopt a screening opinion under paragraph (1) to the effect that the project to which the application for multi-stage consent relates is EIA development, regulation 7(2) to (7) shall apply to the application as if it were an EIA application, subject to the following modifications:—

- (a) for “application” in paragraph (3) substitute “application for multi-stage consent”;
- (b) for “the development” in paragraphs (3), (5), and (6) substitute “the project”;
- (c) for “the permission sought” in paragraph (5) substitute “the consent sought”;
- (d) paragraph (5)(a) is omitted;
- (e) in paragraph (6) for “planning permission” substitute, “application for multi stage consent”; and
- (f) in paragraph (7)—
  - (i) for “application for planning permission” substitute, “application for multi-stage consent”; and
  - (ii) for “the proposed development” substitute, “the project”.

### **Application for multi-stage consent referred to the Scottish Ministers without environmental statement**

#### **21C.—(1) Where—**

- (a) it appears to the Scottish Ministers that an application for multi stage consent which has been referred to them for determination relates to outline planning permission for Schedule 1 development or Schedule 2 development;
- (b) the project in question has either—
  - (i) not been the subject of a screening opinion or screening direction; or
  - (ii) been the subject of a screening opinion or screening direction to the effect that it is not EIA development; and
- (c) no statement referred to by the applicant as an environmental statement for the purposes of these Regulations accompanied either the application for outline planning permission nor the application for multi-stage consent,

the Scottish Ministers must make a screening direction in respect of the development within three weeks beginning with the date of referral of the application.

(2) Where that application for multi-stage consent has already been the subject of a screening opinion under regulation 5 as applied by regulation 21A to the effect that the project to which it relates is not EIA development, the Scottish Ministers may make a screening direction under paragraph (1), but shall not be required to do so.

(3) The Scottish Ministers must, if they consider they have not been provided with sufficient information to make a screening direction, notify in writing the applicant of the points on which they require additional information, and may request the relevant planning authority to provide such information as they can on any of these points.

(4) A screening direction made under paragraph (1) shall supersede the terms of an earlier screening opinion or screening direction.

(5) Where the Scottish Ministers make a screening direction under paragraph (1) to the effect that the project to which the application for multi-stage consent relates is EIA development, regulation 8(2) to (6) shall apply to the application as if it were an EIA application and as if “the application for multi-stage consent” was substituted for “planning permission” in regulation 8(6).

### **Appeal in respect of application for multi-stage consent to the Scottish Ministers without an environmental statement**

**21D.—(1)** Where on consideration of an appeal under section 47 (right to appeal against planning decisions and failure to take such decisions) in respect of an application for multi-stage consent it appears to the Scottish Ministers that—

- (a) the relevant application relates to outline planning permission for Schedule 1 development or Schedule 2 development;
- (b) the project in question has either—
  - (i) not been the subject of a screening opinion or screening direction; or
  - (ii) been the subject of a screening opinion or screening direction to the effect that it is not EIA development; and
- (c) the relevant application is not accompanied by a statement referred to by the appellant as an environmental statement for the purposes of these Regulations,

the Scottish Ministers must make a screening direction in respect of the development within three weeks beginning with the date of receipt of the appeal.

(2) Where that application for multi-stage consent has already been the subject of a screening opinion under regulation 5 as applied by regulation 21A to the effect that the project to which it relates is not EIA development, the Scottish Ministers may make a screening direction under paragraph (1), but shall not be required to do so.

(3) The Scottish Ministers must, if they consider they have not been provided with sufficient information to make a screening direction, notify in writing the appellant of the points on which they require additional information, and may request the relevant planning authority to provide such information as they can on any of these points.

(4) A screening direction made under paragraph (1) shall supersede the terms of an earlier screening opinion or screening direction.

(5) Where the Scottish Ministers make a screening direction under paragraph (1) to the effect that the project to which the application for multi-stage consent relates is EIA development, regulation 9(2) to (5) shall apply to the application as if it were an EIA application and as if “the application for multi stage consent” was substituted for “planning permission” in regulation 9(5).

#### **Application for multi-stage consent with environmental statement**

**21E.**—(1) This regulation applies where—

- (a) an application for multi-stage consent in relation to a project in respect of which an environmental statement has already been submitted—
  - (i) is received by the relevant planning authority; or
  - (ii) is referred to the Scottish Ministers for determination; or
- (b) the Scottish Ministers have under consideration an appeal under section 47 in respect of an application for multi-stage consent where an environmental statement has already been submitted.

(2) The applicant or appellant may submit an environmental statement which has been revised or updated by the applicant or appellant.

(3) The Scottish Ministers or the relevant planning authority, when dealing with an application for multi stage consent or appeal in respect of such an application, may in writing require the applicant or appellant to provide such supplementary information as may be specified to enable the application or appeal to be determined, or concerning any matter which is required to be dealt with in the environmental statement (either as originally submitted or as updated or revised).

(4) Where in the opinion of the Scottish Ministers or the relevant planning authority—

- (a) the applicant or appellant could (having regard in particular to current knowledge and methods of assessment) provide supplementary information about any matter mentioned in Schedule 4; and
- (b) that supplementary information is reasonably required to give proper consideration to the likely environmental effects of the project,

the Scottish Ministers or the relevant planning authority must notify the applicant or appellant in writing and the applicant or appellant must provide that supplementary information (and such supplementary information provided by the applicant or appellant is referred to in these Regulations as “supplementary information”).

(5) Where supplementary information is required in accordance with paragraph (4) regulations 14 and 16 to 18 shall apply to the submission of such supplementary information as they apply to the submission of an environmental statement (subject to any necessary

modifications) and regulation 13 shall similarly apply subject to the substitution, in paragraph (1), of “in Schedule 6A” for “in Schedule 5”.

### **Scoping opinions of the planning authority**

**21F.** Where a person is minded to make an application for multi-stage consent in respect of EIA development, regulations 10 (scoping opinions of the planning authority) and 11 (scoping directions of the Scottish Ministers) shall apply as if that person was a person who was minded to make an EIA application, subject to the following modifications:–

- (a) in regulation 10(1) the reference to “environmental statement” shall include any updated or revised environmental statement;
- (b) in regulations 10 and 11 references to the development are references to the project;
- (c) in regulation 10(5) after “regulation 5(1)” insert “as applied by regulation 21A”; and
- (d) in regulation 10(9) and 11(6) for “planning permission” substitute “multi stage consent”.

### **Procedure to facilitate preparation of environmental statements**

**21G.** Regulation 12 shall apply where a person intends to submit an environmental statement to a relevant planning authority or the Scottish Ministers in connection with an application for multi-stage consent subject to the following modifications–

- (a) in paragraph (2) for “development” substitute “project”; and
- (b) in paragraph 3(b) after “9(3)” insert, “21B, 21C or 21D as the case may be”.

### **Procedure for application for multi-stage consent**

**21H.** Where an environmental statement (including a revised or updated environmental statement) is submitted in connection with an application for multi-stage consent, Part II of these Regulations shall apply in respect of such an environmental statement subject to the following modifications:–

- (a) in regulation 13(1)–
  - (i) for “an EIA application” substitute “an application for multi-stage consent in respect of EIA development”; and
  - (ii) in paragraph (a) after “the statement” insert “, the relevant outline planning permission and supporting documents”;
- (b) in regulation 14(1) for “an EIA application” substitute “an application for multi-stage consent in respect of EIA development” and in regulation 14(2) for “planning permission” substitute “multi stage consent”;
- (c) in regulation 15 for “planning permission” substitute “multi-stage consent”;
- (d) in regulation 16 for “an EIA application” substitute “an application for multi stage consent in respect of EIA development”;
- (e) in regulation 17 for “planning permission” substitute “multi stage consent”;
- (f) in regulation 20–
  - (i) in paragraph (1)(e) at the end insert “as applied by regulations 21B(6), 21C(5) and 21D(5) as the case may be”;

- (ii) in paragraph (2)(b)(i) after “11(2)” insert “as applied by regulation 21F”;  
and
- (iii) in paragraph (2) for “planning permission” substitute “multi stage consent”  
and for “development” substitute “project”;
- (g) in regulation 21(1) and (2) for “an EIA application” substitute “an application for  
multi-stage consent in respect of EIA development”;
- (h) in regulation 40–
  - (i) for references to “ the development” substitute “ the project”;
  - (ii) in paragraph (1) for “an EIA application” substitute “an application for multi  
stage consent for EIA development”; and
  - (iii) in paragraph (4) for “planning permission” substitute “multi stage consent”;
- (i) in regulation 45(2) for “an EIA application” substitute “an application for multi  
stage consent in respect of EIA development”; and
- (j) in Schedule 5 (notice under regulation 13) in the second paragraph of the right  
hand column, after “planning application” insert “(including, in the case of an  
application for multi-stage consent, the relevant outline planning permission and  
supporting documents)”.

### **Form of notice under regulation 13**

**8.** After Schedule 6 (notice under regulation 13 as applied by regulation 19(2)) insert the Schedule set out in the Schedule to these Regulations.

St Andrew’s House,  
Edinburgh  
30th October 2007

*STEWART STEVENSON*  
Authorised to sign by the Scottish Ministers