
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 139

**The Town and Country Planning (Environmental
Impact Assessment) (Scotland) Regulations 2011**

PART 9

SPECIAL CASES

ROMP applications

33.—(1) These Regulations apply to—

- (a) a ROMP application as they apply to an application for planning permission;
- (b) ROMP development as they apply to development in respect of which an application for planning permission is, has been or is to be made;
- (c) a person making a ROMP application as they apply to an applicant for planning permission; and
- (d) the determination of a ROMP application as they apply to the granting of a planning permission,

subject to the modifications and additions set out below.

(2) Regulations 9(4) and (5), 11(4) and (5), 12(3) and (4) and 44 do not apply.

(3) In regulation 9(3)—

- (a) for “three” substitute “six”; and
- (b) after “the notice” insert “, or within such other period as may be agreed with the authority in writing,”.

(4) In regulation 11(3)—

- (a) for “three” substitute “six”; and
- (b) after “the notification” insert “, or within such other period as may be agreed with the Scottish Ministers in writing,”.

(5) In regulation 12(2)—

- (a) for “three” substitute “six”; and
- (b) after “the notification” insert “, or within such other period as may be agreed with the Scottish Ministers in writing,”.

(6) In regulation 10 for “section 47 (right to appeal against planning decisions and failure to take such decisions)” substitute—

“paragraphs 17(1) and 17(2) of Schedule 8 to the Act, paragraph 11(1) of Schedule 9 to the Act or paragraph 9(1) of Schedule 10 to the Act (right of appeal)”.

(7) In regulations 14(9) and 15(8) for “an application for planning permission for” substitute “a ROMP application which relates to another planning permission which authorises”.

(8) In regulation 17 for “an application for planning permission” substitute “a ROMP application”.

(9) In regulation 19(2) for “application for planning permission” substitute “ROMP application”.

(10) In regulation 21(1) for “section 46 or 47” substitute “a ROMP application”.

(11) For regulation 42 substitute—

“Application to the Court of Session

42. For the purposes of Part XI of the Act (validity), the references in section 239, as applied by paragraph 21(3) of Schedule 8, paragraph 16(4) of Schedule 9 or paragraph 9(4) of Schedule 10 to the Act, to action of the Scottish Ministers which is not within the powers of the Act is to be taken to extend to the determination of a ROMP application by the Scottish Ministers in contravention of regulation 3.”.

(12) Regulation 45 applies to ROMP development as it applies to development in respect of which a planning application is made.

(13) Where the Scottish Ministers or the planning authority notifies the applicant or appellant, as the case may be, that—

(a) the submission of an environmental statement is required under regulations 9(1), 11(1), or 12(1) such notification must specify the date by which the environmental statement and compliance with regulations 17 and 18 is required; or

(b) additional information is required under regulation 23 such notification must specify the date by which that information is to be provided.

(14) The planning permission to which the ROMP application relates must not authorise any minerals development (unless the Scottish Ministers have made a screening direction to the effect that the ROMP development is not an EIA development) if the applicant or the appellant does not—

(a) write to the planning authority in accordance with regulation 9(3);

(b) write to the Scottish Ministers in accordance with regulation 11(3) or 12(2);

(c) submit an environmental statement and comply with regulations 17 and 18 by the date specified by the authority, or the Scottish Ministers in accordance with paragraph (13); or

(d) provide additional information and comply with regulation 24 by the date specified by the authority or the Scottish Ministers in accordance with paragraph (13),

and the planning permission to which the ROMP application relates must not authorise any development consisting of the winning and working of minerals, or involving the depositing of mineral waste, except insofar as it imposes any restoration or aftercare condition, at the end of the relevant period referred to in regulations 9(3), 11(3) or 12(2) or on the day following the date specified or agreed by the authority for the submission of the environmental statement or additional information until the applicant or appellant has complied with all the provisions referred to in this paragraph which are relevant to the application or appeal in question.

(15) Particulars of the suspension of development referred to in paragraph (14) and the date that suspension ends must be entered in the appropriate part of the register as soon as reasonably practicable.

(16) Paragraph (14) does not affect any development carried out under a planning permission before the date of suspension of that development.

(17) Where it falls to—

(a) a planning authority to determine a Schedule 1 or a Schedule 2 application, paragraph 14(6)

(b) of Schedule 8, paragraph 9(8) of Schedule 9 or paragraph 6(7) of Schedule 10 to the Act do not have effect to treat the authority as having determined the conditions to which

any relevant planning permission is to be subject unless either the planning authority has adopted a screening opinion or the Scottish Ministers have made a screening direction to the effect that the ROMP development in question is not EIA development;

- (b) a planning authority or the Scottish Ministers to determine a Schedule 1 or a Schedule 2 application—
 - (i) section 36 (register of applications, etc), and any provisions of the Development Management Procedure Regulations made by virtue of that section, have effect with any necessary amendments so that they apply to ROMP applications under paragraph 9(1) of Schedule 9 and paragraph 6(1) of Schedule 10 to the Act as they apply to applications for planning permission; and
 - (ii) where the planning authority is not the authority required to keep the register, the planning authority must provide the authority required to keep it with such information and documents as that authority requires to comply with section 36 as applied by sub-paragraph (i), with regulation 25 as applied by paragraph (1), and with paragraph (12).

(18) Where it falls to the planning authority or the Scottish Ministers to determine an EIA application that is made under paragraph 14(2) of Schedule 8 to the Act, paragraph 16(4) of that Schedule does not apply.

(19) Where it falls to the planning authority to determine an EIA application, the authority must give written notice of their determination of the ROMP application within four months beginning with the date upon which the ROMP application is made or such extended period as may be agreed in writing between the applicant and the authority.

(20) For the purposes of paragraph (19) a ROMP application is not made until—

- (a) a document referred to by the applicant as an environmental statement for the purposes of these Regulations;
- (b) any documents required to accompany that statement; and
- (c) any additional information required under regulation 23,

has been received by the authority.

(21) Where paragraph (17)(a) applies—

- (a) paragraph 17(2) of Schedule 8, paragraph 11(1) of Schedule 9 and paragraph 9(1) of Schedule 10, to the Act (right of appeal) have effect as if there were also a right of appeal to the Scottish Ministers where the planning authority have not given written notice of their determination of the ROMP application in accordance with paragraph (19); and
- (b) paragraph 17(5) of Schedule 8, paragraph 11(2) of Schedule 9 and paragraph 9(2) of Schedule 10, to the Act (right of appeal) have effect as if they also provided for notice of appeal to be made within six months from the expiry of the four months or other period agreed pursuant to paragraph (19).

(22) In determining for the purposes of—

- (a) paragraph 14(6)(b) of Schedule 8, paragraph 9(8) of Schedule 9 and paragraph 6(7) of Schedule 10, to the Act (determination of conditions); or
- (b) paragraph 17(5) of Schedule 8, paragraph 11(2) of Schedule 9 and paragraph 9(2) of Schedule 10, to the Act (right of appeal) as applied by paragraph (21)(b),

the time which has elapsed without the planning authority giving the applicant written notice of their determination in a case where the authority have notified an applicant in accordance with regulation 9(1) that the submission of an environmental statement is required and the Scottish Ministers have given a screening direction in relation to the ROMP development in question, no account must be taken of any period before the issue of the direction.