
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 181

**The Town and Country Planning (Hazardous
Substances) (Scotland) Regulations 2015**

PART 4

Policies and public participation

Other planning approvals for projects

23.—(1) Subject to paragraph (4), this regulation applies where a consent, permission or other authorisation for a relevant project is sought from a planning authority or the Scottish Ministers.

(2) A planning authority or the Scottish Ministers, as the case may be, must, before deciding to give any consent, permission or other authorisation for a relevant project, take such measures as they consider appropriate to ensure that—

- (a) the public is informed by public notices or other appropriate means, including electronic media where available, of the following matters early in the procedure for the taking of a decision or, at the latest, as soon as the information can reasonably be provided:—
 - (i) the subject of the relevant project;
 - (ii) where applicable, the fact that a project, or part of a project, is subject to a national or transboundary environmental impact assessment or to consultations between Member States in accordance with Article 14(3) of the Directive;
 - (iii) details of the planning authority or Scottish Ministers responsible for taking the decision, from whom relevant information can be obtained and to whom comments or questions can be submitted;
 - (iv) an indication of the times and places where, or means by which, the relevant information will be made available;
 - (v) details of the period for transmitting comments or questions; and
 - (vi) the nature of possible decisions or, where there is one, the draft decision;
- (b) they consult the—
 - (i) Scottish Environment Protection Agency; and
 - (ii) in relation to a nuclear site, the Office for Nuclear Regulation and, in any other case, the Health and Safety Executive;
- (c) the main reports and advice issued to the planning authority or the Scottish Ministers, as the case may be, at the time when the public concerned was informed pursuant to sub-paragraph (a) are made available to the public concerned at that time;
- (d) the public concerned is entitled to express comments and opinions to the competent authority before a decision is taken; and
- (e) the results of the consultations held pursuant to this regulation are taken into account in the taking of a decision.

(3) After deciding whether to give any consent, permission or other authorisation for a relevant project, the planning authority or the Scottish Ministers, as the case may be, must make available to the public—

- (a) the content of the decision and the reasons on which it is based, including any subsequent updates;
- (b) the results of the consultations held before the decision was taken and an explanation of how they were taken into account in that decision; and
- (c) information regarding the right to challenge the validity of the decision and the procedures for doing so.

(4) To the extent that the planning authority or the Scottish Ministers, as the case may be, are already required by any enactment to take any of the actions set out in paragraphs (2) and (3), those paragraphs do not apply.

(5) In this regulation—

“enactment” includes an Act of the Scottish Parliament and subordinate legislation made under such an Act;

“the public concerned” means persons of whom the planning authority or the Scottish Ministers, as the case may be, are aware, including any non-governmental organisation promoting environmental protection, who are affected or likely to be affected by, or have an interest in, the taking of a decision to give a consent, permission or other authorisation referred to in paragraph (1); and

“relevant project” means development falling within paragraphs 3, 3A or 4 of Schedule 5 (consultation by the planning authority) to the 2013 Regulations⁽¹⁾.

(6) In this regulation, a reference to giving consent, permission or other authorisation means—

- (a) granting planning permission on an application under Part 3 of the 1997 Act (control over development);
- (b) granting planning permission on an application under section 242A of the 1997 Act (urgent Crown development)⁽²⁾;
- (c) granting planning permission on review under section 43A of the 1997 Act (local developments: schemes of delegation)⁽³⁾ or on an appeal under section 47 of the 1997 Act (right to appeal against planning decisions);
- (d) granting planning permission under section 92(2)(a) of the 1997 Act (action in relation to purchase notice);
- (e) directing that planning permission is deemed to be granted under section 57(1) to (2B) of the 1997 Act (development with government authorisation);
- (f) making—
 - (i) a special development order under section 30(2)(b) of the 1997 Act⁽⁴⁾;
 - (ii) a simplified planning zone scheme under section 50 of the 1997 Act;
 - (iii) an order designating an enterprise zone under section 179 of, and paragraph 5(1) of Schedule 32 to, the Local Government, Planning and Land Act 1980⁽⁵⁾;

⁽¹⁾ Paragraph 3 was amended by [S.I. 2014/469](#) and paragraph 3A was inserted by that instrument.

⁽²⁾ Section 242A was inserted by section 92(1) of the Planning and Compulsory Purchase Act 2004 (c.5) and amended by section 54(13) of the Planning etc. (Scotland) Act 2006 (asp 17).

⁽³⁾ Section 43A was inserted by section 17 of the Planning etc. (Scotland) Act 2006 and amended by [S.S.I. 2013/24](#) and [S.S.I. 2013/26](#).

⁽⁴⁾ Section 30(2)(b) was amended by section 54(3)(b) of the Planning etc. (Scotland) Act 2006 (“the 2006 Act”).

⁽⁵⁾ [1980 c.65](#).

- (iv) an order under section 71 of the 1997 Act (order by planning authority requiring discontinuance of use or alteration or removal of buildings or works)⁽⁶⁾, including an order made under that section by virtue of section 73 of that Act (order by Scottish Ministers) which grants planning permission, or confirming any such order under section 72 of that Act (confirmation of section 71 order by Scottish Ministers); or
- (v) an order under paragraph 1 of Schedule 8 to the 1997 Act (order by planning authority requiring discontinuance of mineral working), including an order made under that paragraph by virtue of paragraph 12 of that Schedule (order by Scottish Ministers) which grants planning permission;
- (g) directing under the following provisions that if an application is made for planning permission it must be granted:—
 - (i) section 92(3) of the 1997 Act (action in relation to purchase notice); or
 - (ii) section 31(5) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (action in relation to listed building purchase notice)⁽⁷⁾; or
- (h) directing under section 10(1) to (2A) of the principal Act that hazardous substances consent is deemed to be granted.

(7) In relation to a consent, permission or other authorisation referred to in paragraph (6) which is capable of being varied or modified, the variation or modification is to be treated as if it is a consent, permission or other authorisation for a relevant project for the purposes of this regulation where that variation or modification authorises development falling within paragraph 4 of Schedule 5 to the 2013 Regulations.

⁽⁶⁾ Section 71 was amended by [S.S.I. 2006/243](#) and section 22(3) of the 2006 Act.

⁽⁷⁾ [1997 c.9](#).