
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 102

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

PART 7

AVAILABILITY OF DIRECTIONS ETC. AND NOTIFICATION OF DECISIONS

Availability of opinions, directions etc. for inspection

28.—(1) Where any document mentioned in paragraph (2) is received, issued or adopted by the planning authority, the planning authority must make copies of that document available for inspection—

- (a) on a website; and
- (b) at all reasonable hours at an office of the planning authority where the register may be inspected.

(2) The documents are any—

- (a) request under regulation 17(1);
- (b) copy of a request under regulation 17(8);
- (c) direction given under regulation 6(4) or (6);
- (d) screening opinion;
- (e) screening direction;
- (f) scoping opinion;
- (g) scoping direction;
- (h) notification given under regulation 12(2), 14(2), 15(2) or 16(2);
- (i) EIA report and any additional information; and
- (j) statement of reasons accompanying any of the above.

(3) Where particulars of a planning application are placed on Part I of the register, the planning authority must take steps to secure that there is also placed on that Part a copy of any document mentioned in paragraph (2) which is relevant to that application.

(4) Documents made available under paragraph (1) must remain so available for a period of two years.

Decision notice

29.—(1) Where an EIA application is determined by a planning authority or the Scottish Ministers the notification of the decision to be given to the developer (“the decision notice”) must include the information specified in paragraph (2).

(2) The information is—

- (a) a description of the development;
- (b) the terms of the decision;
- (c) the main reasons and considerations on which the decision is based;
- (d) information about the arrangements taken to ensure the public had the opportunity to participate in the decision making procedures;
- (e) a summary of—
 - (i) the environmental information; and
 - (ii) the results of the consultations and information gathered pursuant to Parts 5 and 6 and, where relevant, Part 10 and how those results, in particular comments received from an EEA State pursuant to consultation under regulation 41, have been incorporated or otherwise addressed;
- (f) if the decision is to grant planning permission—
 - (i) any conditions to which the decision is subject;
 - (ii) the reasoned conclusion referred to in regulation 4(1)(d);
 - (iii) a statement that the planning authority or the Scottish Ministers, as the case may be, are satisfied that the reasoned conclusion is still up to date;
 - (iv) a description of any mitigation measures; and
 - (v) a description of any monitoring measures required under regulation 30; and
- (g) information regarding the right to challenge the validity of the decision and the procedures for doing so.

(3) Where regulation 4(6) applies the decision notice must describe the matters in respect of which the planning authority or the Scottish Ministers, as the case may be, consider that the effects of the development are not fully identifiable at the time of their determination of the EIA application.

(4) For the purposes of paragraph (2)(f)(iii) the reasoned conclusion referred to in regulation 4(1)(d) is still up to date if, the planning authority or the Scottish Ministers, as the case may be, are satisfied, having regard to current knowledge and methods of assessment, that the reasoned conclusion addresses the likely significant effects of the development on the environment.

(5) In this regulation and in regulation 30—

“mitigation measures” means any features of the development and any measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment including any such features or measures required by virtue of—

- (a) a condition imposed on the grant of planning permission; or
- (b) a planning obligation;

“monitoring measures” means measures requiring the monitoring of any significant adverse effects on the environment of the proposed development including any such measures required by virtue of—

- (a) a condition imposed on the grant of planning permission; or
- (b) a planning obligation; and

“planning obligation” has the meaning given in section 75(1) ^{M1}.

Marginal Citations

M1 Section 75 was inserted by section 23 of the [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#).

Monitoring measures

30.—(1) Where an EIA application is determined by a planning authority or the Scottish Ministers and the decision is to grant planning permission, the planning authority or the Scottish Ministers, as the case may be, must consider whether it is appropriate to require monitoring measures to be carried out.

(2) When considering whether to require monitoring measures to be carried out, and the nature of any such monitoring measures, the planning authority or the Scottish Ministers, as the case may be, must consider—

- (a) whether monitoring measures are proportionate to the nature, location and size of the proposed development and the significance of its effects on the environment having regard in particular to the type of parameters to be monitored and the duration of the monitoring;
- (b) in order to avoid duplication of monitoring, whether monitoring arrangements required under ^{F1}[^{F2}assimilated] law] (other than legislation implementing the requirements of the Directive) or other legislation applicable in Scotland are more appropriate; and
- (c) if monitoring measures are to be required, whether provision should be made to require appropriate remedial action.

(3) Where the planning authority or the Scottish Ministers consider that it is appropriate to require monitoring measures they must do so.

(4) Where mitigation measures or monitoring measures are required the planning authority must take steps to ensure that those measures are implemented.

Textual Amendments

- F1** Words in [reg. 30\(2\)\(b\)](#) substituted (31.12.2020) by [The Town and Country Planning and Electricity Works \(EU Exit\) \(Scotland\) \(Miscellaneous Amendments\) Regulations 2019 \(S.S.I. 2019/80\)](#), [regs. 1, 5\(6\)](#) (as amended by [S.S.I. 2019/274](#), [regs. 1, 2\(2\)](#) and [S.S.I. 2020/310](#), [regs. 1, 2\(2\), 4\(2\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F2** Word in [reg. 30\(2\)\(b\)](#) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/374\)](#), [reg. 1\(1\)](#), [sch. 2 para. 32\(2\)](#)

Notification of decision

31.—(1) Where an EIA application is determined by a planning authority, the planning authority must, as soon as reasonably practicable—

- (a) send a copy of the decision notice to the Scottish Ministers;
- (b) inform the public and those bodies consulted in accordance with regulation 22(1)(b) of the decision and where a copy of decision notice may be inspected, by publishing a notice on the application website or in a newspaper circulating in the locality in which the land is situated or by such other means as are reasonable in the circumstances; and
- (c) make a copy of the decision notice available for public inspection—
 - (i) at an office of the planning authority where the register may be inspected; and
 - (ii) on the application website.

(2) Where an EIA application is determined by the Scottish Ministers, they must send a copy of the decision notice to the planning authority.

Changes to legislation: *There are currently no known outstanding effects for the The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, PART 7. (See end of Document for details)*

(3) The planning authority must, as soon as reasonably practicable after notification of the decision under paragraph (2), comply with paragraph (1)(b) and (c) in relation to the decision so notified as if it were a decision of the planning authority.

Changes to legislation:

There are currently no known outstanding effects for the The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, PART 7.