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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke and re-enact and update, with savings, the Environmental Impact Assessment (Agriculture) (Scotland) Regulations 2006 (“the 2006 Regulations”) and Part IV of the Environmental Impact Assessment (Scotland) Regulations 1999 (“the 1999 Regulations”).

These Regulations implement, in relation to the use of uncultivated land or semi-natural areas for intensive agricultural purposes, the restructuring of rural land holdings on agricultural land, irrigation and land drainage, [Directive 2011/92/EU](#) of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p.1), as amended by [Directive 2014/52/EU](#) of the European Parliament and of the Council (OJ L 124, 25.4.2014, p.1) (“the EIA Directive”). They do so by imposing procedural requirements in relation to the consideration of applications for consent and restricting the grant of consent unless an Environmental Impact Assessment (“EIA”) has been carried out.

These Regulations revoke specific provisions of the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (“the 2011 Regulations”) as these Regulations will replace the 2011 Regulations for the purpose of transposing the EIA Directive in respect of irrigation projects.

Part 2 applies to agriculture and irrigation projects.

Regulation 4 sets out what the environmental assessment process comprises and regulation 16 sets out the content of an EIA report.

Regulation 5 prohibits the grant of consent for an EIA project unless an EIA has been carried out and the Scottish Ministers have first taken account of the environmental information (defined in regulation 2(1)) which is before them. Regulation 26 makes equivalent provision in relation to the determination of an application for multi-stage consent.

Regulations 6 to 8 set out that no person may begin or carry out a project for agriculture, irrigation or restructuring without first obtaining a screening opinion (subject to thresholds in respect of restructuring projects which are set out in regulation 9).

Regulations 10 to 12 and schedule 2 set out the procedures, and information required, for screening opinions.

Regulation 13 contains a prohibition on beginning or carrying out an EIA project for agriculture or irrigation without first obtaining consent from the Scottish Ministers.

Regulation 14 enables a person to seek an opinion from the Scottish Ministers (“a scoping opinion”) on the information to be included in an EIA report. The types of information which may be required are set out in schedule 3. The Scottish Ministers must consult bodies with environmental responsibilities before adopting a scoping opinion. Regulation 15 requires consultation bodies, if requested, to assist the preparation of an EIA report by making information available to the applicant.

Regulation 17 provides for consultation where an EIA report is received by Scottish Ministers and requires publication of notice of the lodging of the application and the EIA report to be given.

Regulation 18 contains procedures for the provision by the applicant of information additional to that contained in the EIA Report and provides that additional information provided by the applicant which becomes available after the initial gathering of information for an EIA report has taken place will also require to be publicised.

Regulations 19 and 20 provide for consultation between EEA States where development is likely to have significant effects on the environment in another EEA State.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Regulation 21 provides for documents to be made available to the public. Regulation 22 requires Scottish Ministers to provide information about decisions taken following consideration of environmental information in accordance with the Regulations.

Regulation 23 substantially re-enacts regulation 15 of the 2006 Regulations and provides that the Scottish Ministers must not grant consent for a project which would involve activities prohibited under those provisions of the Habitats Regulations which implement Articles 12, 13, 15 and 16 of the Habitats Directive. Neither may they grant consent for a project which would adversely affect the integrity of a European site. These provisions implement Article 6(3) of the Habitats Directive.

Regulations 27 and 28 make provision relating to applications for multi-stage consent which essentially mirror the provisions in the Regulations relating to applications for consent for an EIA project.

Regulation 29 and schedule 4 implement Article 6(2) of the Habitats Directive by ensuring that any decisions taken in accordance with the Regulations before the designation of a European site which would permit a project to be carried out which would adversely affect the integrity of the site are reviewed and revoked or modified as necessary.

Regulations 30 to 33 provide for appeals to Scottish Ministers.

Regulation 34 makes provision to extend access to justice to environmental non-governmental organisations. Regulation 35 provides for avoidance of conflicts of interest and regulation 39 makes it an offence to knowingly or recklessly to provide false or misleading information in order to procure a decision or, with intent to deceive, to use such information or to withhold information to that end. Regulation 45 provides for how this applies in the context of offences committed by bodies corporate.

Part 3 deals with land drainage. Authorisations for the execution of drainage works (“improvement orders”) are granted under the Land Drainage (Scotland) Act 1958. Regulation 47 provides that the owner of agricultural land who proposes to apply for an improvement order must (subject to the threshold provisions) apply to Scottish Ministers for a screening opinion as to whether the works are an EIA project. Regulation 46 provides that the Scottish Ministers may not grant an improvement order where the works are an EIA project unless an EIA has been carried out.

Regulation 48 applies, with modifications, those provisions of Part 2 which are to apply to drainage works projects.

A Business and Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Scottish Government and online at [www.legislation.gov.uk](http://www.legislation.gov.uk).