
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 115

The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017

PART 7

NOTIFICATION OF DECISIONS

Decision notice

23.—(1) Where an EIA application is determined by the Scottish Ministers, the notification of the decision to be given to the applicant (referred to in these Regulations as “the decision notice”) must include the information specified in paragraph (2).

(2) The information is—

- (a) a description of the works;
- (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 9 and how those results, in particular comments received from an EEA State pursuant to consultation under regulation 30, have been incorporated or otherwise addressed;
- (f) if the decision is to grant a regulatory approval—
 - (i) any conditions to which the decision is subject;
 - (ii) the reasoned conclusion referred to in regulation 5(1)(d);
 - (iii) a statement that the Scottish Ministers are satisfied that the reasoned conclusion is still up to date;
 - (iv) a description of any features of any mitigation measures; and
 - (v) a description of any monitoring measures required under regulation 24; and
- (g) information regarding the right to challenge the validity of the decision and the procedures for doing so.

(3) Where regulation 5(6) applies, the decision notice must describe the matters in respect of which the Scottish Ministers consider that the effects of the works 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 5(1)(d) is still up to date if the Scottish Ministers are satisfied, having regard to current knowledge and

methods of assessment, that the reasoned conclusion addresses the likely significant effects of the works on the environment.

(5) In this regulation and in regulation 24—

“mitigation measures” means any features of the works 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 condition imposed on the grant of regulatory approval; and

“monitoring measures” means measures requiring the monitoring of any significant adverse effects on the environment of the proposed works including any such measures required by virtue of a condition imposed on the grant of regulatory approval.

Monitoring measures

24.—(1) Where an EIA application is determined by the Scottish Ministers and the decision is to grant a regulatory approval, the Scottish Ministers 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 Scottish Ministers must consider—

- (a) whether monitoring measures are proportionate to the nature, location and size of the proposed works and the significance of their 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 Union legislation (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 Scottish Ministers consider that it is appropriate to require monitoring measures they must do so.

(4) Where mitigation measures or monitoring measures are required by a condition imposed on the grant of a regulatory approval the Scottish Ministers must take steps to ensure that those measures are implemented.

Notification of decision

25.—(1) Where an EIA application is determined by the Scottish Ministers they must—

- (a) send the decision notice to the applicant;
- (b) notify the consultation bodies, and such other bodies consulted under regulation 18(1), of their decision by sending a copy of the decision notice to such bodies; and
- (c) publish a notice containing the information specified in paragraph (3)(a) to (c) on a website.

(2) The applicant must, as soon as reasonably practicable after receiving the decision notice under paragraph (1)(a), notify the public of the decision, and of where a copy of decision notice may be inspected, by publishing a notice in accordance with paragraph (3)(d).

(3) A notice under paragraphs (1) and (2) must—

- (a) describe the works;
- (b) state the terms of the decision;

- (c) state the times and places at which, and the means by which, a copy of the decision notice is available for inspection; and
- (d) be published—
 - (i) in The Edinburgh Gazette;
 - (ii) in one or more newspapers circulating in the locality in which the proposed works are situated (or in relation to the proposed works situated in, on, over or under the sea, such newspapers as are likely to come to the attention of those likely to be affected by the proposed works); and
 - (iii) on the application website.