
EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007 ([S.S.I. 2007/570](#)) (“the principal Rules”). These Rules apply in relation to Scotland only.

The Rules implement the amendments to [Directive 2011/92/EU](#) of the European Parliament and of the Council on the assessment of certain public and private projects on the environment (OJ L 26, 28.1.2012, p.1) made by Council [Directive 2014/52/EU](#) (OJ L 124, 25.4.2014, p.1).

The Rules make amendments to the principal Rules as follows—

Rule 3 amends rule 2 (interpretation) of the principal Rules.

Rule 4 inserts a new rule 2A into the principal Rules to set out the requirements for an environmental impact assessment.

Rule 5 substitutes rule 3(3) of the principal Rules for the purpose of adding further bodies to be consulted regarding the draft environmental impact assessment report (“the EIA report”).

Rule 6 substitutes rule 5 of the principal Rules to set out—

- the circumstances in which an application under section 4 for an order under the Transport and Works (Scotland) Act 2007 (“the Act”) which authorises works etc. will require an environmental impact assessment. Those circumstances are where the Scottish Ministers issue a screening decision to the effect that an environmental impact assessment is necessary or, where no such screening decision has been made, the applicant for an order under section 1 of the Act submits an EIA report to the Scottish Ministers;
- the requirements for a request for a screening decision.

Rule 7 substitutes rule 6 of the principal Rules to set out the requirements in relation to a request for an opinion of the Scottish Ministers as to the information to be included in the EIA report, referred to as a “scoping opinion”.

Rule 8 updates rule 8 of the principal Rules to refer to the EIA report.

Rule 9 substitutes rule 9 of the principal Rules to set out the requirements for an EIA report. Those requirements include—

- the information to be contained in the EIA report;
- that the EIA report is to be prepared by competent experts.

Rule 10 updates rule 11 of the principal Rules to require an applicant to send copies of the application and accompanying documents to additional consultation bodies.

Rule 11 inserts new provision into rule 12 of the principal Rules to provide, among other matters, that the Scottish Ministers must ensure that information in relation to an application for an order authorising works etc. under section 1 of the Act, including in particular the EIA report, is published on a website maintained by the Scottish Ministers for the purpose of ensuring that information relating to such applications is publicly available.

Rule 12 updates rule 14 of the principal Rules to include a reference to the EIA report.

Rule 13 amends rule 15 to update the power of the Scottish Ministers to, if necessary, direct an applicant for an order under section 1 of the Act to provide supplementary information in order to ensure the completeness and quality of the EIA report. Where supplementary information is provided

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under rule 15, the Scottish Ministers must publish any further information relevant to the EIA report on the website referred to above.

Rule 14 inserts a new rule 15A into the principal Rules to provide that where an assessment under the Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716) is required in addition to an environmental impact assessment the Scottish Ministers must ensure, where appropriate, that the assessments are co-ordinated.

Rule 15 inserts a new rule 26 into the principal Rules to provide that the Scottish Ministers must exercise their duties under those Rules in an objective manner which avoids any conflict of interest.

Rule 16 substitutes a new schedule 1 into the principal Rules. This schedule sets out detailed information which must, if relevant, be included in the EIA report.

Rule 17 substitutes a new Form 5 in schedule 2 of the principal Rules. The new Form 5 contains an updated reference to the EIA report.

Rule 18 amends schedule 5 of the principal Rules to make similar provision to that which is outlined above except in relation to proposals under section 6 of the Act for the Scottish Ministers to make an order under the Act of their own volition.

Rule 19 contains transitional and savings provisions.

A business and regulatory impact assessment has been prepared in relation to these Rules and placed in the Scottish Parliament Information Centre. A copy of this can be obtained from Transport Scotland, Buchanan House, 58 Port Dundas Road, Glasgow, G4 0HF.