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SCHEDULES

SCHEDULE 1

PROCEDURES FOR MAKING OR CONFIRMING CERTAIN ORDERS AND SCHEMES

Modifications etc. (not altering text)

- C1** Sch. 1 excluded (21.10.1991) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), **ss. 30(6), 34(7)**(with savings ss. 47(4), 167(2)); [S.I. 1991/2286, art. 2\(1\)](#), **Sch. 1**

PART I

ORDERS

- 7 (1) ^{F1}... after considering objections (if any) to the proposed order or, as the case may be, the order which are not withdrawn and, where a local inquiry is held, the report of the person who held the inquiry, the Secretary of State may ^{F2}—
- (a) make or confirm the order (with or without modifications); or
 - (b) where the order is subject to the affirmative procedure by virtue of section 143A(3) of this Act, lay before the Scottish Parliament a draft statutory instrument containing the order (with or without modifications).]
- ^{F3}(1A) Where the Scottish Ministers have published an ^{F4}EIA report] they shall take into consideration—
- (a) that ^{F5}report]; ^{F6}...
 - ^{F7}(b) any opinion on that ^{F5}report] or the project which is expressed in writing by any of the consultation bodies or by any other person and is received by the Scottish Ministers within any period specified for the purpose by them; and
 - (c) where section ^{F8}20F] applies and the EEA State has indicated in accordance with subsection (4) of that section that it wishes to participate in the environmental impact assessment procedure, any opinion on that ^{F5}report] or the project which is expressed in writing by the EEA State, by a member of the public in the EEA State or by any of the authorities ^{F9}in that State that the State has specified as authorities to be consulted] and is received by the Scottish Ministers within any period specified for the purpose by them.]
- ^{F10}(1B) When the Scottish Ministers have decided whether to proceed with the project in relation to which an environmental impact assessment has been made they must publish their decision together with a statement confirming they have complied with sub-paragraph (1A) and must notify the consultation bodies by sending to them copies of documents containing—
- (a) a description of the project,
 - (b) the terms of the decision,
 - (c) the main reasons and considerations on which the decision is based,

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- (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 section 20C and, where relevant, section 20F, and how those results, in particular comments received from [F11]EEA State pursuant to consultation under section 20F, have been incorporated or otherwise addressed,
- (f) if the decision is to proceed with the project—
 - (i) any conditions to which the decision is subject,
 - (ii) the reasoned conclusion referred to in section 20B(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 the project and any measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment,
 - (v) a description of any monitoring measures required under section 20G, and
- (g) information regarding the right to challenge the validity of the decision and the procedures for doing so,

and at the same time must make such documents available to the public.]

[Where—

- ^{F12}(1BA) (a) the Scottish Ministers publish under sub-paragraph (1B) above a decision to proceed with a project; and
- [^{F13}(b) the order giving effect to that decision is subject to the affirmative procedure by virtue of section 143A(3) of this Act,]

they shall publish together with the decision a statement to the effect that [^{F14}the order cannot be made unless the Scottish Parliament, by resolution, approves a draft statutory instrument containing it].]

- ^{F15}(1BB) [For the purposes of sub-paragraph (1B)(f)(iii) the reasoned conclusion referred to in section 20B(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 project on the environment.]

- [^{F16}(1C) Any requirement for publication in connection with an environmental impact assessment shall be met by publication—
 - (a) in the Edinburgh Gazette,
 - (b) in at least one local newspaper circulating in the area in which the project is situated, and
 - (c) on the website the Scottish Ministers use for the purpose of giving information to the public about projects of a category into which the project in question falls.]

- [Any non-governmental organisation promoting environmental protection and ^{F17}(1D) meeting any requirements under the law [^{F18}of any part of the United Kingdom] shall be deemed to have an interest for the purposes of Article [^{F19}11] (a) of the Directive

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and rights capable of being impaired for the purposes of Article [F19]11] (b) of the Directive.]

[For the purpose of sub-paragraph (1D) Article 11(1) of the Directive is to be read F20(1E) as if the reference to—

- (a) “Member States” were a reference to “The Scottish Ministers”,
- (b) “a Member State” were a reference to “Scotland”.]

(2) The power under this paragraph to make or confirm the order includes power to make or confirm it so far as relating to part of the proposals contained in it (either without modification or subject to such modifications as he thinks fit) while deferring consideration of the remaining part.]

Textual Amendments

- F1 Words in Sch. 1 para. 7(1) repealed (28.12.2007) by Transport and Works (Scotland) Act 2007 (asp 8), s. 30(4), sch. 3; S.S.I. 2007/516, art. 2 (with S.S.I. 2007/517, arts. 1(1), 4(2)-(4))
- F2 Words in Sch. 1 para. 7(1) substituted (11.11.2011) by The Interpretation and Legislative Reform (Scotland) Act 2010 (Consequential, Savings and Transitional Provisions) Order2011 (S.S.I. 2011/396), arts. 1, 14(a) (with art. 16)
- F3 Sch. 1 para. 7(1A)-(1C) substituted for Sch. 1 para. 7(1A)(1B) (1.8.1999) by S.S.I. 1999/1, reg. 52
- F4 Words in Sch. 1 para. 7(1A) substituted (16.5.2017) by The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017 (S.S.I. 2017/137), regs. 1, 9(a)(i) (with reg. 12)
- F5 Word in Sch. 1 para. 7(1A) substituted (16.5.2017) by The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017 (S.S.I. 2017/137), regs. 1, 9(a)(ii) (with reg. 12)
- F6 Word in Sch. 1 para. 7(1A) omitted (1.2.2007) by virtue of The Environmental Impact Assessment (Scotland) Amendment Regulations 2006 (S.S.I. 2006/614), regs. 1, 6(5)(a)
- F7 Sch. 1 para. 7(1A)(b)(c) substituted for Sch. 1 para. 7(1A)(b) (1.2.2007) by The Environmental Impact Assessment (Scotland) Amendment Regulations 2006 (S.S.I. 2006/614), regs. 1, 6(5)(a)
- F8 Word in Sch. 1 para. 7(1A) substituted (16.5.2017) by The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017 (S.S.I. 2017/137), regs. 1, 9(a)(iii) (with reg. 12)
- F9 Words in Sch. 1 para. 7(1A)(c) substituted (31.12.2020) by The Environmental Impact Assessment (Transport) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/415), regs. 1, 2(8)(a); 2020 c. 1, Sch. 5 para. 1(1)
- F10 Sch. 1 para. 7(1B) substituted (16.5.2017) by The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017 (S.S.I. 2017/137), regs. 1, 9(b) (with reg. 12)
- F11 Word in Sch. 1 para. 7(1B)(e)(ii) substituted (31.12.2020) by The Environmental Impact Assessment (Transport) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/415), regs. 1, 2(8)(b); 2020 c. 1, Sch. 5 para. 1(1)
- F12 Sch. 1 para. 7(1BA) inserted (28.12.2007) by Transport and Works (Scotland) Act 2007 (asp 8), ss. 24(4)(a), 30(4); S.S.I. 2007/516, art. 2
- F13 Sch. 1 para. 7(1BA)(b) substituted (11.11.2011) by The Interpretation and Legislative Reform (Scotland) Act 2010 (Consequential, Savings and Transitional Provisions) Order2011 (S.S.I. 2011/396), arts. 1, 14(b)(i) (with art. 16)
- F14 Words in Sch. 1 para. 7(1BA) substituted (11.11.2011) by The Interpretation and Legislative Reform (Scotland) Act 2010 (Consequential, Savings and Transitional Provisions) Order2011 (S.S.I. 2011/396), arts. 1, 14(b)(ii) (with art. 16)
- F15 Sch. 1 para. 7(1BB) inserted (16.5.2017) by The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017 (S.S.I. 2017/137), regs. 1, 9(c) (with reg. 12)
- F16 Sch. 1 para. 7(1C) substituted (16.5.2017) by The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017 (S.S.I. 2017/137), regs. 1, 9(d) (with reg. 12)
- F17 Sch. 1 para. 7(1D) inserted (1.2.2007) by The Environmental Impact Assessment (Scotland) Amendment Regulations 2006 (S.S.I. 2006/614), regs. 1, 6(5)(d)

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| <p>F18 Words in Sch. 1 para. 7(1D) inserted (31.12.2020) by The Environmental Impact Assessment (Transport) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/415), regs. 1, 2(8)(c); 2020 c. 1, Sch. 5 para. 1(1)</p> <p>F19 Word in Sch. 1 para. 7(1D) substituted (16.5.2017) by The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017 (S.S.I. 2017/137), regs. 1, 9(e) (with reg. 12)</p> <p>F20 Sch. 1 para. 7(1E) inserted (31.12.2020) by The Environmental Impact Assessment (Transport) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/415), regs. 1, 2(8)(d); 2020 c. 1, Sch. 5 para. 1(1)</p> |
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