
STATUTORY INSTRUMENTS

1988 No. 1221

The Environmental Assessment (Scotland) Regulations 1988

PART VI

AMENDMENTS OF THE ROADS (SCOTLAND) ACT 1984

General

69. The Roads (Scotland) Act 1984(1) shall be amended in accordance with regulations 70 to 74 below.

New section 20A

70. The following section shall be inserted after section 20:—

“Environmental assessment of certain road construction projects

20A.—(1) In any case where the Secretary of State has under consideration the construction of a new road, he shall determine before the relevant date whether or not the project falls within Annex I or Annex II to Council Directive No [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment.

(2) If he determines that the project falls within Annex I, or that it falls within Annex II and has such characteristics that it should be made subject to an environmental assessment, he shall publish not later than the relevant date an environmental statement, that is, a statement containing the information referred to in Annex III to the Directive to the extent that he considers—

- (a) that it is relevant to the specific characteristics of the project and of the environmental features likely to be affected by it; and
- (b) that (having regard in particular to current knowledge and methods of assessment) the information may reasonably be gathered, including at least—
 - (i) a description of the project comprising information on the site, design and size of the project;
 - (ii) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
 - (iii) the data required to identify and assess the main effects which the project is likely to have on the environment;
 - (iv) a non-technical summary of the information mentioned in paragraphs (i) to (iii) above.

(3) In this section “the relevant date” means the date of publication of the draft order, or draft scheme, relating to the construction of the road.

(4) If the Secretary of State publishes an environmental statement under this section, he shall ensure that the public concerned is given an opportunity to express an opinion before the project is initiated.

(5) If on completion of the project any part of the road would lie on, or within 100 metres of, land comprised—

- (a) in a national scenic area designated under section 262C of the Town and Country Planning (Scotland) Act 1972;
- (b) in a conservation area within the meaning of the said Act of 1972; or
- (c) in an area notified under section 28 of the Wildlife and Countryside Act 1981 as an area of special scientific interest or in relation to which the Secretary of State has made an order under section 29 of that Act,

he shall ensure that the appropriate environmental body is given an opportunity to express an opinion before the project is initiated.

(6) In this Act “the appropriate environmental body” means—

- (a) The Countryside Commission for Scotland, if the proposal relates to land falling within paragraph (a) of subsection (5) above;
- (b) the planning authority, if it relates to land falling within paragraph (b); and
- (c) the Nature Conservancy Council, if it relates to land falling within paragraph (c).

(7) This section does not apply where the draft order or draft scheme is published before the coming into force of the Environmental Assessment (Scotland) Regulations 1988.”.

New section 55A

71. The following section shall be inserted after section 55:—

“Environmental assessment of certain road improvement projects

55A.—(1) In any case where the Secretary of State has under consideration—

- (a) the making of an order such as is mentioned in paragraph 1 of Schedule 1 to this Act relating to the improvement of a road, or
- (b) the improvement of a road without such an order,

he shall determine before the relevant date whether or not the project falls within Annex I or Annex II to Council Directive No [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment.

(2) If he determines that the project falls within Annex I, or that it falls within Annex II and has such characteristics that it should be made subject to an environmental assessment, he shall publish an environmental statement not later than the relevant date.

(3) In this section “the relevant date” means—

- (a) in a case falling within paragraph (a) of subsection (1) above, the date of the publication of the draft order; and
- (b) in a case falling within paragraph (b), the date of the publication of details of the project.

(4) If the Secretary of State publishes an environmental statement under this section, he shall ensure that the public concerned is given an opportunity to express an opinion before the project is initiated.

(5) If on completion of the project any part of the road would lie on, or within 100 metres of, land such as is mentioned in section 20A(5) of this Act, the Secretary of State

shall ensure that the appropriate environmental body is given an opportunity to express an opinion before the project is initiated.

- (6) In a case falling within subsection (1)(b) above, the Secretary of State—
- (a) shall consider—
 - (i) the environmental statement;
 - (ii) any opinion expressed by a member of the public; and
 - (iii) if the statement relates to land such as is mentioned in section 20A(5) of this Act, any opinion expressed by the appropriate environmental body; and
 - (b) shall publish his decision as to whether or not to initiate the project.
- (7) This section does not apply—
- (a) where a draft order relating to an improvement is published before the coming into force of the Environmental Assessment (Scotland) Regulations 1988; or
 - (b) where the Secretary of State has under consideration before that date the making of an improvement without an order.”.

New definitions in section 151(1)

72. The following definitions shall be inserted in section 151(1) at the appropriate places in alphabetical order:—

““appropriate environmental body” is to be construed in accordance with section 20A(6) of this Act;”;

““environmental assessment” means an assessment in accordance with Council Directive No [85/337/EEC](#);”;

““environmental statement” has the meaning provided by section 20A(2) of this Act;”.

New paragraph 7(1A) in Schedule 1

73. The following sub-paragraph shall be inserted after paragraph 7(1) of Schedule 1:—

“(1A) Where the Secretary of State has published an environmental statement, the matters to be considered before an order is made under this paragraph include—

- (a) the statement;
- (b) any opinion expressed by a member of the public; and
- (c) if the statement relates to land such as is mentioned in section 20A(5) of this Act, any opinion expressed by the appropriate environmental body.”.

New paragraph 13(1A) in Schedule 1

74. The following sub-paragraph shall be inserted after paragraph 13(1) of that Schedule:—

“(1A) Where the Secretary of State has published an environmental statement, the matters to be considered before a scheme is made include—

- (a) the statement;
- (b) any opinion expressed by a member of the public; and
- (c) if the statement relates to land such as is mentioned in section 20A(5) of this Act, any opinion expressed by the appropriate environmental body.”.