

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations are concerned with the further implementation in Scotland of Council Directive [85/337/EEC](#) (OJNo. L175, 5.7.85, p.40) on the assessment of the effects of certain public and private projects on the environment. They amend Part II (Planning) of the Environmental Assessment (Scotland) Regulations 1988 (“the Environmental Assessment Regulations”) to apply to appeals against enforcement notices and to allow a developer to check the need for environmental assessment in connection with a proposal which may benefit from permitted development rights. In addition the Regulations remove Part IV (Specific Developments in New Towns) of the Environmental Assessment Regulations because the new town development corporations have been wound up.

The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 1997 ([S.I. 1997/1871](#)) removes permitted development rights from classes of development where an environmental assessment would be required if a planning application were to be made in respect of them.

Section 133 of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”) enables the Secretary of State when determining an appeal against an enforcement notice issued under section 127 of that Act to grant planning permission in respect of any matter stated in the notice as constituting a breach of planning control.

The amendments made by these Regulations provide that a person who is minded to undertake development which appears to him to be within a description of development permitted under article 3 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 may seek an opinion from the planning authority on whether the proposed development would require environmental assessment if it were to be the subject of a planning application.

Also, where an application for planning permission for development to which an enforcement notice relates would have required environmental assessment in accordance with the Environmental Assessment Regulations, the amendments made by these Regulations preclude the Secretary of State from granting planning permission on the determination of the enforcement notice appeal without first considering an environmental statement relating to the development.

Regulation 4 amends the definition of “annex 1 application” and “annex 2 application” to include a deemed application under the enforcement appeal procedure (sections 130 to 133 of the 1997 Act).

Regulations 7 to 14 amend regulation 7 (opinion of planning authority) to allow a person who is minded to undertake development which appears to be permitted development to obtain the opinion of the planning authority on whether the development would need environmental assessment and therefore not be covered by permitted development rights. If the person does not accept the authority’s opinion, he may seek a direction from the Secretary of State.

Regulation 22 adds regulation 11A which provides that when serving an enforcement notice a planning authority must also serve a notice of unauthorised development where in the planning authority’s opinion the development ought to have been subject to environmental assessment. Any

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appeal against the enforcement notice must then be accompanied by an environmental statement. If the person does not accept the authority's opinion, he may seek a direction from the Secretary of State.

Regulation 24 adds regulation 15A which sets out the procedure to be followed where an enforcement appeal which ought to have been accompanied by an environmental statement is received without one. If the appellant fails to submit an environmental statement within the period allowed, his deemed application for planning permission, and any appeal on the ground that planning permission should be granted, lapse at the end of the period.

Regulation 27 adds regulation 19A which provides for consultation where the Secretary of State receives an environmental statement in connection with an enforcement appeal.

Regulation 32 extends regulation 25 (development by planning authority) to apply where a planning authority is minded to undertake development under permitted development rights which may require environmental assessment.

Numerous minor, consequential and technical amendments are also made and Schedule 4 to the Environmental Assessment Regulations is updated.

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Changes and effects yet to be applied to :

- reg. 1 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 2 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 3 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 4 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 4-34 revoked by [S.S.I. 1999/1 Sch. 7](#)
- reg. 5 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 6 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 7 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 8 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 9 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 10 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 11 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 12 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 13 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 14 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 15 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 16 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 17 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 18 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 19 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 20 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 21 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 22 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 23 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 24 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 25 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 26 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 27 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 28 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 29 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 30 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 31 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 32 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 33 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 34 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)
- reg. 35 coming into force by [S.I. 1997/1870 reg. 1\(1\)](#)