

SCHEDULE 1

Regulation 8(2)

MATTERS RELEVANT TO CONSIDERATION OF WHETHER OR NOT AN ANNEX II PROJECT IS LIKELY TO HAVE SIGNIFICANT EFFECTS ON THE ENVIRONMENT

Characteristics of the project

1. The characteristics of the project, having regard, in particular, to—
 - (a) its size;
 - (b) the combined effect of the project and other plans and projects;
 - (c) the use of natural resources in the course of the project;
 - (d) the production of waste, pollution and nuisances; and
 - (e) the risk of accidents, having regard in particular to substances or technologies used.

Location of the project

2. The environmental sensitivity of geographical areas likely to be affected by development under the project, having regard, in particular, to—
 - (a) their existing use;
 - (b) the relative abundance, quality and regenerative capacity of natural resources in the area;
 - (c) the absorption capacity of the natural environment, paying particular attention to the following areas—
 - (i) any wetland;
 - (ii) any coastal zone;
 - (iii) mountain and forest zones;
 - (iv) any nature reserve or parks;
 - (v) any area classified or protected under the legislation of any EEA State;
 - (vi) any area designated by any EEA State under the Wild Birds Directive or the Habitats Directive;
 - (vii) any area in which the environmental quality standards laid down in Community legislation have already been exceeded;
 - (viii) any densely populated area; and
 - (ix) any landscape of historical, cultural or archaeological significance.

Characteristics of the potential impact

3. The potential significant effects of development under the project in relation to the matters set out in paragraphs 1 and 2, having regard in particular to—
 - (a) the extent of the impact with reference to the geographical area and the size of the affected population;
 - (b) the nature of any impact on any other EEA state;
 - (c) the magnitude and complexity of the impact;
 - (d) the probability of the impact; and
 - (e) the duration, frequency and reversibility of the impact.

SCHEDULE 2

Regulation 11(4)

SCREENING OPINIONS

Request for a screening opinion

1.—(1) A request for a screening opinion must be accompanied by—

- (a) a chart or map (or both) sufficient to identify the location of the project and of the regulated activity;
- (b) a brief description (including a plan) of the nature and purpose of the project and the regulated activity and their possible effects on the environment;
- (c) a statement of the working methods to be used in the course of the project and in carrying out the regulated activity; and
- (d) such other information or representations as the applicant may wish to provide or make.

(2) Where the regulated activity comprises the whole of (or forms part of) a project in respect of which the applicant has made an application to a consenting authority other than the regulator, an applicant seeking a screening opinion must—

- (a) inform the appropriate authority and the regulator (if the regulator is not also the appropriate authority) of any such application;
- (b) if any such consenting authority has requested an environmental statement in respect of that project, inform the appropriate authority and the regulator (if the regulator is not also the appropriate authority) of that request; and
- (c) if so requested by the appropriate authority, provide the appropriate authority with a copy of any environmental statement and of any other environmental information provided to any such consenting authority.

Payment of a fee for a screening opinion

2.—(1) The appropriate authority may require an applicant to pay a reasonable fee in respect of—

- (a) the administrative expenses of providing a screening opinion; and
- (b) the cost of carrying out any examinations or tests that, in the opinion of the appropriate authority, are necessary or expedient to enable the appropriate authority to produce its screening opinion.

(2) If the appropriate authority considers that it is appropriate to do so, it may—

- (a) require the applicant to make a reasonable advance payment against the fee that it is entitled to charge for its screening opinion;
- (b) determine the balance of the fee payable after carrying out the work necessary to produce its screening opinion in accordance with the remaining provisions of this Schedule; and
- (c) require the applicant to pay the balance of the fee that it is entitled to charge prior to the notification of its screening opinion.

Procedure for reaching a screening opinion

3.—(1) The appropriate authority must, if it considers that it has not been provided with sufficient information to enable it to give a screening opinion, notify the applicant in writing of the matters on which it requires further information and the applicant must supply that further information to the appropriate authority within such period as the appropriate authority may reasonably require.

(2) The applicant must supply the appropriate authority with such number of additional copies of the documentation as the appropriate authority may reasonably require.

(3) The appropriate authority need not deal further with the request for a screening opinion until the applicant has complied with the requirements of sub-paragraphs (1) and (2).

(4) Where an applicant has failed to comply with the requirements of sub-paragraph (1) or (2) within such reasonable period as the appropriate authority has specified, or such longer period as the appropriate authority may reasonably allow—

- (a) the regulator may treat the application to which the request relates as having been withdrawn, and
- (b) the appropriate authority (if the regulator is not also the appropriate authority) may direct the regulator to do so.

Consultation

4.—(1) The appropriate authority must consult such of the consultation bodies as it considers appropriate before giving a screening opinion.

(2) When carrying out any consultation under sub-paragraph (1), the appropriate authority must allow the consultation body a reasonable period within which to respond, and that period must not be less than 28 days from the date of the letter to the consultation body from the appropriate authority or such other period as may be agreed between the consultation body and the appropriate authority.

Notification of a screening opinion

5. The appropriate authority must, as soon as reasonably practicable, provide its screening opinion and a written statement of the reasons for its opinion to—

- (a) the applicant;
- (b) if the appropriate authority is not also the regulator, the regulator; and
- (c) such of the consultation bodies as it consulted in accordance with paragraph 4.

Availability of screening opinions for inspection

6.—(1) Subject to sub-paragraph (2), the appropriate authority must ensure that, as soon as possible after being sent to the applicant, its screening opinion is—

- (a) publicised in such manner as it considers appropriate; and
- (b) in the case of a deposit, made available on the Public Register.

(2) Sub-paragraph (1) does not require disclosure of any excluded information.

SCHEDULE 3

Regulation 12(2)

INFORMATION TO BE INCLUDED IN AN ENVIRONMENTAL STATEMENT

1. A description of the project and of the regulated activity, including details of the following matters—

- (a) the location, size and nature of the project and the regulated activity;
- (b) the quantity and nature and source of the materials to be used in the course of the project and the regulated activity;

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- (c) the quantity, nature and source of any items or materials to be deposited in the sea in the course of the project and the regulated activity; and
 - (d) the working methods to be used in the course of the project and the regulated activity.
- 2.** A description of the aspects of the environment likely to be significantly affected by the project and the regulated activity, including—
- (a) human beings, fauna and flora;
 - (b) soil, water, air, climate and the landscape;
 - (c) material assets and the cultural heritage; and
 - (d) the interaction between any two or more of the things mentioned in the preceding sub-paragraphs.
- 3.—(1)** A description, complying with sub-paragraph (2), of the likely significant effects of the project and the regulated activity on the environment resulting from—
- (a) the nature of the activities to be carried out and the manner in which they are to be carried out;
 - (b) the use of natural resources;
 - (c) the emission of pollutants;
 - (d) the creation of nuisances; and
 - (e) the elimination of waste.
- (2)** The description should cover each of the following categories of effect—
- (a) direct and indirect effects;
 - (b) secondary effects;
 - (c) cumulative effects;
 - (d) short-term, medium-term and long-term effects;
 - (e) permanent and temporary effects; and
 - (f) positive and negative effects.
- 4.** The forecasting methods used by the applicant to assess the main effects that the project and the regulated activity are likely to have on the environment.
- 5.** A description of the measures envisaged to prevent, reduce and offset any significant adverse effects of the project and the regulated activity on the environment.
- 6.** An outline of the main alternatives studied by the applicant and an indication of the main reasons for the applicant’s choice, taking into account the environmental effects of those alternatives and the project as proposed.
- 7.** A non-technical summary of the information provided under paragraphs 1 to 6.
- 8.** Any difficulties, such as technical deficiencies or lack of knowledge, encountered in compiling any information of a kind specified in paragraphs 1 to 6.

SCHEDULE 4

Regulation 13(2)

SCOPING OPINIONS

Request for a scoping opinion

1. A request for a scoping opinion must be accompanied by—
 - (a) a chart, plan or map sufficient to identify the location of the regulated activity and of other activities to be carried out in the course of the project;
 - (b) a brief description of the nature and purpose of the project and the regulated activity and their possible effects on the environment; and
 - (c) such other information or representations as the applicant may wish to provide or make.

Information required where another application has been made

2. Where the regulated activity is to be carried out in the course of a project in respect of which the applicant has made an application to a consenting authority other than the regulator, an applicant seeking a scoping opinion must—
 - (a) inform the appropriate authority and the regulator (if the regulator is not also the appropriate authority) of any such application;
 - (b) if any such consenting authority has requested an environmental statement in respect of that project, inform the appropriate authority and the regulator (if the regulator is not also the appropriate authority) of that request; and
 - (c) if so requested by the appropriate authority or the regulator, provide the appropriate authority with a copy of any environmental statement and of any other environmental information provided to any such consenting authority.

Payment of a fee for a scoping opinion

- 3.—(1) The appropriate authority may require an applicant to pay a reasonable fee in respect of—
 - (a) the administrative expenses of providing a scoping opinion; and
 - (b) the cost of carrying out any examinations or tests that, in the opinion of the appropriate authority, are necessary or expedient to enable the appropriate authority to produce its scoping opinion.
- (2) If the appropriate authority considers that it is appropriate to do so, it may—
 - (a) require the applicant to make a reasonable advance payment against the fee that it is entitled to charge for its scoping opinion;
 - (b) determine the balance of the fee payable after carrying out the work necessary to produce its scoping opinion in accordance with the remaining provisions of this Schedule; and
 - (c) require the applicant to pay the balance of the fee that it is entitled to charge prior to the notification of its scoping opinion.

Procedure for reaching a scoping opinion

- 4.—(1) The appropriate authority must, if it considers that it has not been provided with sufficient information to enable it to give a scoping opinion, notify the applicant in writing of the matters on which it requires further information and the applicant must supply that further information to the appropriate authority within such period as the appropriate authority may reasonably require.

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(2) The applicant must supply the appropriate authority with such number of additional copies of the documentation as the appropriate authority may reasonably require.

(3) The appropriate authority need not deal further with the request for a scoping opinion until the applicant has complied with the requirements of sub-paragraphs (1) and (2).

(4) Where an applicant has failed to comply with the requirements of sub-paragraph (1) or (2) within such reasonable period as the appropriate authority has specified, or such longer period as the appropriate authority may reasonably allow—

- (a) the appropriate authority may treat the request as having been withdrawn;
- (b) the regulator may treat the application to which the request relates as having been withdrawn; and
- (c) the appropriate authority (if the regulator is not also the appropriate authority) may direct the regulator to treat the application as withdrawn.

Matters to be considered in reaching a scoping opinion

5. In reaching a scoping opinion, the appropriate authority must consider—

- (a) the specific characteristics of the project;
- (b) the nature and purpose of regulated activities of the type concerned in the project;
- (c) the environmental features likely to be affected by the project; and
- (d) the extent to which the applicant may reasonably be required to compile the information, having regard, inter alia, to current knowledge and methods of assessment.

Consultation

6.—(1) The appropriate authority must consult such of the consultation bodies as it considers appropriate before giving a scoping opinion.

(2) When carrying out any consultation under sub-paragraph (1), the appropriate authority must allow the consultation body a reasonable period within which to respond and that period must not be less than 28 days from the date of the letter that the consultation body receives from the appropriate authority or such other period as may be agreed between the consultation body and the appropriate authority.

Notification of a scoping opinion

7. The appropriate authority must, as soon as reasonably practicable, provide its scoping opinion and a written statement of the reasons for its opinion to—

- (a) the applicant;
- (b) if the appropriate authority is not also the regulator, the regulator; and
- (c) such of the consultation bodies as it consulted in accordance with paragraph 6.

Availability of scoping opinions for inspection

8.—(1) Subject to sub-paragraph (2), the appropriate authority must ensure that, as soon as possible after being sent to the applicant—

- (a) its scoping opinion is publicised in such manner as it considers appropriate; and
- (b) in the case of a deposit, its scoping opinion is made available on the Public Register.

(2) Sub-paragraph (1) does not require disclosure of any excluded information.

SCHEDULE 5

Regulations 21 and 22(a)(iv)

CONSIDERATION OF REPRESENTATIONS FROM THE PUBLIC

1.—(1) In relation to each representation made pursuant to the statement referred to in regulation 16(2)(g), the appropriate authority must consider whether or not the representation is capable of being dealt with in accordance with this Schedule.

(2) If the appropriate authority concludes that the representation is not capable of being dealt with in accordance with this Schedule—

- (a) it must have such regard (if any) as it considers appropriate in all the circumstances to the representation when reaching its EIA consent decision; and
- (b) the remaining provisions of this Schedule do not apply to the representation.

2.—(1) If the appropriate authority concludes in accordance with paragraph 1(1) that the representation is capable of being dealt with in accordance with this Schedule, it must consider whether or not the representation is relevant to the EIA consent decision.

(2) If the appropriate authority concludes that the representation is not relevant to the EIA consent decision, it must consider whether it is relevant in some other way to the project in the course of which the regulated activity is to be carried out.

(3) If the appropriate authority concludes that the representation is not relevant to that project in any other way—

- (a) it need not have any further regard to the representation; and
- (b) the remaining provisions of this Schedule do not apply to the representation.

(4) If the appropriate authority concludes that the representation is relevant in some other way to the project in the course of which the regulated activity is to be carried out—

- (a) it must copy the representation to the regulator and any consenting authorities in so far as the appropriate authority regards the representation as relevant to any of their functions that are relevant to compliance with the EIA Directive;
- (b) it need not have any further regard to the representation; and
- (c) the remaining provisions of this Schedule do not apply to the representation.

3.—(1) If the appropriate authority concludes in accordance with paragraph 2(1) that the representation is relevant to the regulated activity, it must consider whether the representation is capable of being addressed by an arrangement made between it, the applicant and the maker of the representation.

(2) If the appropriate authority concludes that the representation is capable of being addressed by means of such an arrangement, it may invite the applicant and the maker of the representation to enter into discussions with it and each other with a view to making the arrangement.

(3) If an arrangement is made—

- (a) the appropriate authority must have regard to the arrangement when reaching its EIA consent decision; and
- (b) the remaining provisions of this Schedule do not apply to the representation.

4.—(1) If either—

- (a) the appropriate authority concludes in accordance with paragraph 3(1) that the representation is capable of being satisfied by an arrangement made between it, the

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applicant and the maker of the representation but no such arrangement is made within a reasonable period, or

- (b) the appropriate authority concludes in accordance with paragraph 3(1) that the representation is not capable of being satisfied by an arrangement made between it, the applicant and the maker of the representation,

the appropriate authority must consider whether the representation gives rise to a dispute that calls for resolution of a question of fact in order to enable it to make its EIA consent decision.

(2) If the appropriate authority concludes that the representation gives rise to such a dispute, it may, if it considers that it is appropriate to do so—

- (a) instigate a local inquiry; or
- (b) appoint a person whom it considers expert in the subject-matter of the dispute to report to it on the question of fact.

(3) If the appropriate authority concludes that the representation does not give rise to such a dispute or if it does not think that it is appropriate to instigate a local inquiry or appoint a person to report to it—

- (a) it must have such regard (if any) as it considers appropriate in all the circumstances to the representation when reaching its EIA consent decision;
- (b) the remaining provisions of this Schedule do not apply to the representation.

5.—(1) If the appropriate authority instigates a local inquiry in accordance with paragraph 4(2) (a)—

- (a) it must give notice of that inquiry in such manner as it thinks fit; and
- (b) all persons interested are permitted to attend, and be heard at, the inquiry.

(2) The appropriate authority must not reach its EIA consent decision until the inquiry has been completed.

(3) The appropriate authority must have regard to the outcome of the inquiry when reaching its EIA consent decision.

6.—(1) Subsections (2) to (5) of section 250 (power to direct inquiries) of the Local Government Act 1972⁽¹⁾ apply in relation to an inquiry instigated under paragraph 4(2)(a) and held in England or Wales as they apply in relation to an inquiry held under that section.

(2) Schedule A1 (provisions applicable to inquiries and investigations) to the Interpretation Act (Northern Ireland) 1954⁽²⁾ applies in relation to an inquiry instigated under paragraph 4(2)(a) and held in Northern Ireland as it applies to an inquiry held under an enactment passed or made as mentioned in section 23 (inquiries and investigations) of that Act.

(3) The Town and Country Planning (Inquiries Procedure) (Scotland) Rules 1997⁽³⁾ apply in relation to an inquiry instigated under paragraph 4(2)(a) and held in Scotland as they apply to an inquiry held under those Rules.

7.—(1) If the appropriate authority appoints a person to report to it in accordance with paragraph 4(2)(b), it must—

- (a) notify the applicant and the maker of the representation, and the regulator (if the appropriate authority is not also the regulator)—
 - (i) that it has so done; and

(1) 1972 c.70.
(2) 1954 c.33 (N.I.).
(3) S.I. 1997/796 (S.75).

- (ii) its reasons for doing so;
 - (b) send details of the appointed person and of the question of fact to the applicant and the maker of the representation and to the regulator (if the appropriate authority is not also the regulator).
- (2) The appointed person must provide such opportunity for each of the applicant, the maker of the representation, the appropriate authority and the regulator (if the appropriate authority is not also the regulator) to address him orally or in writing, or both, as he considers expedient for the purposes of making his report.
- (3) The appropriate authority must not reach its EIA consent decision until either the appointed person has made his report or a reasonable period has expired.
- (4) The appointed person's report to the appropriate authority should contain his findings of fact on the subject-matter of the dispute and should be sent to the appropriate authority and the regulator (if the appropriate authority is not also the regulator) and copied to the applicant and the maker of the representation.
- (5) When reaching its EIA consent decision, the appropriate authority must—
 - (a) have regard to the appointed person's report; and
 - (b) have such regard as the appropriate authority considers appropriate in all the circumstances to any representations made to the appointed person.