



# Environmental Assessment (Scotland) Act 2005

2005 asp 15

## PART 1

### ENVIRONMENTAL ASSESSMENT FOR PLANS AND PROGRAMMES

#### 5 Qualifying plans and programmes

- (1) In this Act, qualifying plans and programmes are plans and programmes of a description set out in subsection (3) or (4)—
  - (a) in respect of which the first formal preparatory act is on or after the coming into force of this section; and
  - (b) which are not exempt by virtue of section 7(1) or 8(2).
- (2) But a plan or programme is a qualifying plan or programme only to the extent that it relates to matters of a public character.
- (3) The description set out in this subsection is a plan or programme (to which this Act applies) which is required by a legislative, regulatory or administrative provision and—
  - (a) which—
    - (i) is prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use; and
    - (ii) sets the framework for future development consent of projects listed in schedule 1;
  - (b) which, in view of the likely effect on sites, has been determined to require an assessment pursuant to [<sup>F1</sup>any [<sup>F2</sup>assimilated] law extending to Scotland which implemented] Article 6 or 7 of Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild flora and fauna (as last amended by [<sup>F3</sup>Council [Directive 2013/17/EU](#)]); or
  - (c) which does not fall within paragraph (a) or (b) but sets the framework for future development consent of projects.

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*Changes to legislation: There are currently no known outstanding effects for the  
 Environmental Assessment (Scotland) Act 2005, Section 5. (See end of Document for details)*

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- (4) The description set out in this subsection is a plan or programme (to which this Act applies)—
- (a) which is prepared by a responsible authority as specified in, or by virtue of, section 2(4); and
  - (b) which—
    - (i) is not a plan or programme of a description set out in subsection (3); and
    - (ii) is not of a type specified in, or by virtue of, section 6(1).
- (5) The Scottish Ministers may by order modify schedule 1.

#### **Textual Amendments**

- F1** Words in s. 5(3)(b) inserted (31.12.2020) by [The Environmental Assessment \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/178\)](#), regs. 1(2)(b), **3(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Word in s. 5(3)(b) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/374\)](#), reg. 1(1), **sch. 1 para. 5(2)**
- F3** Words in s. 5(3)(b) substituted (30.6.2019) by [The Environmental Assessment \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/178\)](#), regs. 1(2)(a), **2(2)**

#### **Commencement Information**

- I1** S. 5 in force at 20.2.2006 by [S.S.I. 2006/19](#), **art. 2**

**Changes to legislation:**

There are currently no known outstanding effects for the Environmental Assessment (Scotland) Act 2005, Section 5.