
SCOTTISH STATUTORY INSTRUMENTS

1999 No. 1

**The Environmental Impact Assessment
(Scotland) Regulations 1999**

PART II

TOWN AND COUNTRY PLANNING

CHAPTER 3

PROCEDURES CONCERNING APPLICATIONS FOR PLANNING PERMISSION

Application made to a planning authority without an environmental statement

7.—(1) Where it appears to the relevant planning authority that—

- (a) an application for planning permission which is before them for determination is a Schedule 1 application or Schedule 2 application;
- (b) the development in question has not been the subject of a screening opinion or screening direction; and
- (c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (3) and (4) of regulation 5 shall apply as if the receipt or lodging of the application were a request made under regulation 5(1).

(2) Where an EIA application which is before a planning authority for determination is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, the authority shall notify the applicant in writing that the submission of an environmental statement is required.

(3) An authority shall notify the applicant in accordance with paragraph (2) within three weeks beginning with the date of receipt of the application or such longer period as may be agreed in writing with the applicant; but where the Scottish Ministers, after the expiry of that period of three weeks or of any longer period so agreed, make a screening direction to the effect that the development is EIA development, the authority shall so notify the applicant within seven days beginning with the date the authority received a copy of that screening direction.

(4) An applicant receiving a notification pursuant to paragraph (2) may, within three weeks beginning with the date of the notification, write to the authority—

- (a) stating that he accepts their view and is providing an environmental statement; or
- (b) unless the Scottish Ministers have made a screening direction in respect of the development, stating that he is writing to them to request a screening direction.

(5) If the applicant does not write to the authority in accordance with paragraph (4), the permission sought shall, unless the Scottish Ministers have made a screening direction to the effect that the development is not EIA development, be deemed to be refused at the end of the relevant three week period, and the deemed refusal—

- (a) shall be treated as a decision of the authority for the purposes of paragraph 3(c) of Schedule 5 (registers) to the general development order; but
- (b) shall not give rise to an appeal to the Scottish Ministers by virtue of section 47 (right to appeal against planning decisions and failure to take such decisions).

(6) An authority which has given a notification in accordance with paragraph (2) shall, unless the Scottish Ministers make a screening direction to the effect that the development is not EIA development, determine the relevant application only by refusing planning permission if the applicant does not submit an environmental statement and comply with regulation 13(3).

(7) A person who requests a screening direction pursuant to sub-paragraph (4)(b) shall send to the Scottish Ministers with his request copies of—

- (a) his application for planning permission;
- (b) all documents sent to the authority as part of the application; and
- (c) all correspondence between the applicant and the authority relating to the proposed development,

and paragraphs (2) to (5) of regulation 6 shall apply to a request under this regulation as they apply to a request made pursuant to regulation 5(6).

Application referred to the Scottish Ministers without an environmental statement

8.—(1) Where it appears to the Scottish Ministers that—

- (a) an application for planning permission which has been referred to them for determination is a Schedule 1 application or Schedule 2 application;
- (b) the development in question has not been the subject of a screening opinion or screening direction; and
- (c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (3) and (4) of regulation 6 shall apply as if the referral of the application were a request made by the applicant pursuant to regulation 5(6).

(2) Where it appears to the Scottish Ministers that an application which has been referred to them for determination is an EIA application and is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, the Scottish Ministers shall notify the applicant in writing that the submission of an environmental statement is required and shall send a copy of that notification to the relevant planning authority.

(3) The Scottish Ministers shall notify the applicant in accordance with paragraph (2) within three weeks beginning with the date they received the application or such longer period as they may reasonably require.

(4) An applicant who receives a notification under paragraph (2) may within three weeks beginning with the date of the notification write to the Scottish Ministers stating that he proposes to provide an environmental statement.

(5) If the applicant does not write in accordance with paragraph (4), the Scottish Ministers shall be under no duty to deal with the application; and at the end of the three week period the Scottish Ministers shall inform the applicant in writing that no further action is being taken on the application.

(6) Where the Scottish Ministers have given a notification under paragraph (2), they shall determine the relevant application only by refusing planning permission if the applicant does not submit an environmental statement and comply with regulation 13(3).

Appeal to the Scottish Ministers without an environmental statement

9.—(1) Where on consideration of an appeal under section 47 (right to appeal against planning decisions and failure to take such decisions) it appears to the Scottish Ministers that—

- (a) the relevant application is a Schedule 1 application or Schedule 2 application;
- (b) the development in question has not been the subject of a screening opinion or screening direction; and
- (c) the relevant application is not accompanied by a statement referred to by the appellant as an environmental statement for the purposes of these Regulations,

paragraphs (3) and (4) of regulation 6 shall apply as if the appeal were a request made by the appellant pursuant to regulation 5(6).

(2) Where it appears to the Scottish Ministers that the relevant application is an EIA application and is not accompanied by a statement referred to by the appellant as an environmental statement for the purposes of these Regulations, they shall notify the appellant in writing that the submission of an environmental statement is required and shall send a copy of that notification to the relevant planning authority.

(3) An appellant who receives a notification under paragraph (2) may within three weeks beginning with the date of the notification write to the Scottish Ministers stating that he proposes to provide an environmental statement.

(4) If the appellant does not write in accordance with paragraph (3), the Scottish Ministers shall be under no duty to deal with the appeal; and at the end of the three week period they shall inform the appellant that no further action is being taken on the appeal.

(5) Where the Scottish Ministers have given a notification under paragraph (2), they shall determine the appeal only by refusing planning permission if the appellant does not submit an environmental statement and comply with regulation 13(3).