
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 258

**The Environmental Assessment of Plans and
Programmes (Scotland) Regulations 2004**

PART 1

INTRODUCTORY PROVISIONS

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004 and shall come into force on 20th July 2004.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

“consultation authority” has the meaning given by regulation 5;

“the Directive” means Directive [2001/42/EC\(1\)](#) of the European Parliament and of the Council on the assessment of the effects of certain plans and programmes on the environment;

“the EIA Directive” means Council Directive [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive [97/11/EC\(2\)](#);

“environmental assessment” means the preparation of an environmental report, the carrying out of consultations, the taking into account of the environmental report and the result of the consultations in decision making and the provision of information on the decision in accordance with Part 3 of these Regulations;

“environmental report” means the part of the plan or programme documentation containing the information required in regulation 16 and Schedule 2;

“the Habitats Directive” means Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild flora and fauna, as last amended by Council Directive [97/62/EC\(3\)](#);

“plans and programmes” means plans and programmes (including those co-financed by the European Community) which—

(a) are—

(i) subject to preparation or adoption (or both) by a responsible authority at national, regional or local level; or

(ii) prepared by a responsible authority for adoption, through a legislative procedure; and

(1) O.J. No. L 197, 21.07.2001, p.30.

(2) O.J. No. L 175, 5.7.1985, p.40. The amending Directive is at O.J. No. L 73, 14.3.1997, p.5.

(3) O.J. No. L 206, 22.7.1992. The latest amending Directive is at O.J. No. L 305, 8.11.1997, p.42.

(b) are required by legislative, regulatory or administrative provisions, and includes any modification of such plans or programmes;

“responsible authority”, had the meaning given in regulation 4;

“the public” means one or more natural or legal persons, trusts or associations.

(2) Other expressions used both in these Regulations and in the Directive have the same meaning in these Regulations as they have in the Directive.

Application of the Regulations

3.—(1) Subject to paragraph (2), these Regulations apply to plans and programmes which relate solely to the whole or any part of Scotland.

(2) These Regulations do not apply to—

(a) plans and programmes the sole purpose of which is to serve national defence or civil emergency;

(b) financial or budget plans and programmes;

(c) plans and programmes co-financed under the 2000-2006 programming period for Council Regulation (EC) No. 1260 1/1999 and the 2000/2006 and 2000/2007 programming periods for Council Regulation (EC) No. 1257/99 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) (O.J. L 160, 26.6.1999 p.80).

Responsible authorities

4.—(1) In these Regulations a responsible authority is any body or person exercising functions of a public character.

(2) Subject to paragraph (3), the responsible authority in relation to a plan or programme is the authority by which, or on whose behalf, the plan or programme is prepared.

(3) Where more than one authority is responsible for a plan or programme, or part of it, the responsible authority shall be the authority agreed upon amongst those authorities with an interest in the plan or programme, which failing, shall be the authority determined to be the responsible authority by the Scottish Ministers.

Consultation authorities

5.—(1) Subject to paragraph (2), in relation to every plan or programme, each of the following shall be a consultation authority:—

(a) the Scottish Ministers;

(b) the Scottish Environment Protection Agency; and

(c) Scottish Natural Heritage.

(2) Where an authority mentioned in paragraph (1) is at any time the responsible authority as regards a plan or programme, it shall not at that time exercise the functions under these Regulations of a consultation authority in relation to that plan or programme; and references to the consultation authorities in the following provisions of these Regulations shall be construed accordingly.