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SCOTTISH STATUTORY INSTRUMENTS

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**2019 No. 322**

**ROAD TRAFFIC  
TRANSPORT AND WORKS**

The Environmental Impact Assessment  
(Transport) (Scotland) Regulations 2019

*Made* - - - - 9th October 2019  
*Laid before the Scottish  
Parliament* - - - - 11th October 2019  
*Coming into force* - - 7th December 2019

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972<sup>(1)</sup> and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Environmental Impact Assessment (Transport) (Scotland) Regulations 2019 and come into force on 7 December 2019.

**Amendment of the Roads (Scotland) Act 1984**

2.—(1) The Roads (Scotland) Act 1984<sup>(2)</sup> is amended as follows.

(2) In section 20B(3)(b) (environmental impact assessment), at the end insert “, as amended by Regulation (EU) 2019/1010<sup>(3)</sup>”.

(3) In section 20C (environmental impact assessment report)—

(a) in subsection (2), for “shall” substitute “must”,

(b) in subsection (3), at the beginning of paragraph (a) insert “in all cases”.

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(1) 1972 c.68 (“the 1972 Act”). Section 2(2) was amended by paragraph 15(3) of schedule 8 of the Scotland Act 1998 (c.46) (“the 1998 Act”) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by section 3(3) and Part 1 of the schedule of the European Union (Amendment) Act 2008 (c.7). The functions conferred upon the Minister of the Crown under section 2(2), insofar as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. The 1972 Act is prospectively repealed by the European Union (Withdrawal) Act 2018 (c.16), section 1 from exit day (see section 20 of that Act).

(2) 1984 c.54. Section 20B was substituted, and sections 20C and 55A were inserted by S.S.I. 2017/137.

(3) OJ L 170, 25.6.2019, p.115.

(4) In section 55A(14) (environmental assessment of certain road improvement projects), for “in accordance with subsection (13)” substitute “relating to the EIA report and such supplementary information is reasonably required to give proper consideration to the likely environmental effects of the project”.

### **Amendment of the Transport and Works (Scotland) Act 2007**

3.—(1) The Transport and Works (Scotland) Act 2007(4) is amended as follows.

(2) In section 4(7) (applications), for “85/337/EEC, as amended by Council [Directive 97/11/EC](#)” substitute “2011/92/EU(5), as amended by Council [Directive 2014/52/EU](#)”.

(3) In section 5(3), for “Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993” substitute “EEA Agreement”.

### **Amendment of the Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007**

4.—(1) The Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007(6) are amended as follows.

(2) In rule 2(1) (interpretation) in the definitions of—

- (a) “the Directive”, at the end insert “, as amended by Council [Directive 2014/52/EU](#)”,
- (b) “EEA State”, for “agreement on the European Economic Area signed at Oporto on 2nd May 1992, together with the Protocol adjusting that agreement signed at Brussels on 17th March 1993, as modified or supplemented from time to time” substitute “EEA Agreement”.

(3) In rule 2A(3)(b), at the end insert “, as amended by Regulation (EU) 2019/1010”.

(4) In rule 5(3) (EIA application and screening decision), in each place it appears for “these Rules” substitute “rules 2A, 3(3) and (4), 4 to 6, 8(2)(h) and (i), 9, 11(4) and (7)(d), 12(10) to (12), 14 to 15A, 26(2), schedule 1, and paragraphs 3 to 10, 11A, 12 (as it applies to paragraph 11A), 12A, 16(f), 19, 20 (as it applies to paragraph 19), 21 (as it applies to paragraph 11A), 30, 31, 33 (except for the reference to paragraph 29 in paragraph 33) and 35(2) of schedule 5”.

(5) In rule 12(11) (publicity for application)—

- (a) after “that” insert a new sub-paragraph “(a)”,
- (b) at the end insert—
  - “, and
  - (b) publish a copy of the EIA report on that website.”.

St Andrew’s House  
Edinburgh  
9th October 2019

*MICHAEL MATHESON*  
A member of the Scottish Government

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(4) [2007 asp 8](#). Section 4(7) was amended by [S.S.I. 2017/138](#).  
 (5) OJ L 26, 28.1.2012, p.1, as amended by [Directive 2014/52/EU](#) of the European Parliament and of the Council (OJ L 124, 25.4.2014, p.1).  
 (6) [S.S.I. 2007/570](#), as relevantly amended by [S.S.I. 2017/74](#).

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972.

Regulation 2 makes minor updates to the Roads (Scotland) Act 1984.

Regulation 3 amends the Transport and Works (Scotland) Act 2007 to update out of date references to EU law with references to the current EU equivalents.

Regulation 4 makes minor updates to the Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007.

A Business and Regulatory Impact Assessment has not been produced for this instrument as no impact upon business, charities or voluntary bodies is foreseen.