SCOTTISH STATUTORY INSTRUMENTS

2002 No. 324

TOWN AND COUNTRY PLANNING
ROADS AND BRIDGES
LAND DRAINAGE

The Environmental Impact Assessment (Scotland) Amendment Regulations 2002

Made - - - -	*27th June 2002*
Laid before the Scottish Parliament - - - -	*28th June 2002*
Coming into force - -	*23rd September 2002*

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**) and section 40 of the Town and Country Planning (Scotland) Act 1997(**2**), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Environmental Impact Assessment (Scotland) Amendment Regulations 2002 and shall come into force on 23rd September 2002.

(2) In these Regulations–

"the Act" means the Town and Country Planning (Scotland) Act 1997;

"the principal Regulations" means the Environmental Impact Assessment (Scotland) Regulations 1999(**3**);

"environmental statement" means a statement–

(a) that includes such of the information referred to in Part I of Schedule 4 to the principal Regulations as is reasonably required to assess the environmental effects of the development and which the applicant can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile, but

(**1**) 1972 c. 68; section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15. The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(**2**) 1997 c. 8. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(**3**) S.S.I. 1999/1.

(b) that includes at least the information referred to in Part II of Schedule 4 to the principal Regulations.

"ROMP application" means an application to a relevant planning authority to determine the conditions to which a planning permission is to be subject under–

(a) paragraph 14(2) of Schedule 8 to the Act (registration of old mining permissions);

(b) paragraph 9(1) of Schedule 9 to the Act (review of old mineral planning permissions); or

(c) paragraph 6(1) of Schedule 10 to the Act (periodic review of mineral permissions).

Amendment of the principal Regulations

2.—(1) The principal Regulations shall be amended as follows.

(2) In regulation 2 (interpretation)–

(a) for the definition of "relevant planning authority" substitute–

""relevant planning authority" means the body to whom it falls, fell, or would, but for a direction under–

(a) section 46 of the Act (call-in of applications by the Scottish Ministers), fall to determine an application for planning permission; or

(b) paragraph 19 of Schedule 8, paragraph 13 of Schedule 9 or paragraph 8 of Schedule 10 (reference of applications to the Scottish Ministers) to the Act, fall to determine a ROMP application;";

(b) after the definition of "reporter" insert–

""ROMP application" means an application to a relevant planning authority to determine the conditions to which a planning permission is to be subject under–

(a) paragraph 14(2) of Schedule 8 to the Act (registration of old mining permissions);

(b) paragraph 9(1) of Schedule 9 to the Act (review of old mineral planning permissions); or

(c) paragraph 6(1) of Schedule 10 to the Act (periodic review of mineral planning permissions);

"ROMP development" means development which has yet to be carried out and which is authorised by a planning permission in respect of which a ROMP application has been or is to be made;";

(c) for the definition of "screening direction" substitute–

""screening direction" means a direction made by the Scottish Ministers as to whether development is EIA development;"; and

(d) for the definition of "sensitive area" substitute–

""sensitive area" means any of the following:–

(a) land notified under section 28(1) (areas of special scientific interest) of the Wildlife and Countryside Act 1981(**4**);

(b) land to which section 29(3) (nature conservation orders) of the Wildlife and Countryside Act 1981 applies;

(**4**) 1981 c. 69.

(c) a property appearing on the World Heritage List kept under article 11 (2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage(**5**);

(d) a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979(**6**);

(e) a European site within the meaning of regulation 10 of the Conservation (Natural Habitats, &c.) Regulations 1994(**7**);

(f) an area designated as a Natural Heritage Area by a direction made by the Secretary of State or the Scottish Ministers under section 6(2) of the Natural Heritage (Scotland) Act 1991(**8**) or as a National Scenic Area by a direction made by the Secretary of State under section 262C of the Town and Country Planning (Scotland) Act 1972(**9**);

(g) an area designated as a National Park by a designation order made by the Scottish Ministers under section 6(1) of the National Parks (Scotland) Act 2000(**10**).".

(3) After regulation 28 (restriction of grant of permission by new simplified planning zone schemes or enterprise zone orders) insert–

"**ROMP Applications**

28A.—(1) These Regulations shall apply to–

(a) a ROMP application as they apply to an application for planning permission;

(b) ROMP development as they apply to development, in respect of which an application for planning permission is, has been or is to be made;

(c) a person making a ROMP application as they apply to an applicant for planning permission; and

(d) the determination of a ROMP application as they apply to the granting of a planning permission,

subject to the modifications and additions set out below.

(2) Regulations 7(5) and (6), 8(5) and (6), 9(4) and (5), and 45 shall not apply.

(3) In Regulation 3(1) (prohibition on granting planning permission without consideration of environmental information)–

(a) for "these Regulations" substitute "the Environmental Impact Assessment (Scotland) (Amendment) Regulations 2002"; and

(b) for "determined in accordance with paragraph (3) of article 14 (time periods for decision) of the general development order" substitute "the date on which a ROMP application has been made which complies with the provisions of paragraphs 14(3) to (5) and 16(1) of Schedule 8, paragraph 9(2) of Schedule 9, or paragraph 6(2) of Schedule 10, to the Act".

(**5**) See Command Paper 9424.
(**6**) 1979 c. 46.
(**7**) S.I.1994/2716.
(**8**) 1991 c. 28.
(**9**) 1972 c. 52; section 6(9) of the Natural Heritage (Scotland) Act 1991 contained a saving provision for any areas which were designated as National Scenic Areas under section 262C of the Town and Country Planning (Scotland) Act 1972 as at the date of repeal of that section by section 27 of, and Schedule 11 to, that 1991 Act.
(**10**) 2000 asp 10.

(4) In regulation 7(4) (application made to a planning authority without an environmental statement)–

(a) for "three" substitute "six"; and

(b) after "the notification" insert ", or within such other period as may be agreed with the authority in writing,".

(5) In regulation 8(4) (application referred to the Scottish Ministers without an environmental statement)–

(a) for "three" substitute "six"; and

(b) after "the notification" insert ", or within such other period as may be agreed with the Scottish Ministers in writing,".

(6) In regulation 9(3) (appeal to the Scottish Ministers without an environmental statement)–

(a) for "three" substitute "six"; and

(b) after "the notification" insert ", or within such other period as may be agreed with the Scottish Ministers in writing,".

(7) In regulation 9(1) (appeal to the Scottish Ministers without an environmental statement) for "section 47 (right to appeal against planning decisions and failure to take such decisions)" substitute–

"paragraphs 17(1) and 17(2) of Schedule 8 to the Act, paragraph 11(1) of Schedule 9 to the Act, or paragraph 9(1) of Schedule 10 to the Act (right of appeal)".

(8) In regulation 16(1) (consultation where environmental statement received by the Scottish Ministers) for "section 47" substitute "ROMP application".

(9) In regulations 10(9) (scoping opinions of the planning authority) and 11(6) (scoping directions of the Scottish Ministers) for "an application for planning permission for" substitute "a ROMP application which relates to another planning permission which authorises".

(10) In regulation 13 (publicity for environmental statement) after paragraph (3) insert–

"(3A) Where an applicant submits an environmental statement to the authority in accordance with paragraph (1), the provisions of article 12 of, and Schedule 8 to, the general development order (procedure on receipt of applications) shall apply to a ROMP application under paragraph 14(2) of Schedule 8, paragraph 9(1) of Schedule 9 and paragraph 6(1) of Schedule 10 to the Act as they apply to a planning application falling within article 12 except that for the references in the notice in Schedule 8 of the general development order to "planning permission" there shall be substituted "determination of the conditions to which a planning permission is to be subject" and that notice shall refer to the relevant provisions of the Act pursuant to which the application is made."

(11) In regulation 14(2) (Consultation where environmental statement received by planning authority)–

(a) omit "an applicant for planning permission submits";

(b) insert after "in paragraph (1)","is submitted"; and

(c) for "he" substitute "the applicant".

(12) In regulation 15 (copies of environmental statement for the Scottish Ministers) for "an application for planning permission" substitute "a ROMP application".

(13) For regulation 43 (Application to the Court of Session) substitute–