*Draft Regulations laid before the Scottish Parliament under section 5(2) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021, for approval by resolution of the Scottish Parliament.*

DRAFT SCOTTISH STATUTORY INSTRUMENTS

# 2024 No.

# TOWN AND COUNTRY PLANNING

## The Masterplan Consent Area Scheme (Environmental Impact Assessment) (Scotland) Regulations 2024

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| *Made - - - -* | *2024* |
| *Coming into force - -* | *5th December 2024* |

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 40, 252 and 275 of the Town and Country Planning (Scotland) Act 1997(**a**), section 1(1) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021(**b**) and all other powers enabling them to do so.

In accordance with section 5(2) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021(**c**), a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

## PART 1

### Introductory

**Citation and commencement**

**1.** These Regulations may be cited as the Masterplan Consent Area Scheme (Environmental Impact Assessment) (Scotland) Regulations 2024 and come into force on 5 December 2024.

**Interpretation**

**2.**—(1) In these Regulations—

(**a**) 1997 c. 8. Section 40 was amended by S.I. 2011/1043, by section 24(3) of the Water Environment and Water Services (Scotland) Act 2003 (asp 3) ("the 2003 Act") and section 24 of the Planning (Scotland) Act 2019 (asp 13) ("the 2019 Act"). Section 252 was amended by section 31 of the Planning etc. (Scotland) Act 2006 (asp 17) ("the 2006 Act") and by section 41 of the 2019 Act. Section 275 was relevantly amended by section 54(16) of the 2006 Act. Section 277 contains a definition of "prescribed" relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State under the Town and Country Planning (Scotland) Act 1997 transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46). The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). These Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.

(**b**) 2021 asp 4.

(**c**) Under section 5 of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 where regulations make provision for the charging of fees the regulations are subject to the affirmative procedure.

"the 2017 Regulations" means the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017(**a**),

"the Act" means the Town and Country Planning (Scotland) Act 1997 and references to sections without reference to the Act are references to sections of that Act,

"additional information" has the meaning given in regulation 16(2),

"the CCS Directive" means Directive 2009/31/EC of the European Parliament and of the Council on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No. 1013/2006(**b**), as it had effect immediately before IP completion day,

"the consultation bodies" means—

(a) any adjoining planning authority, where the proposed development is likely to affect land in their area,

(b) Scottish Natural Heritage (Naturescot),

(c) Scottish Water,

(d) the Scottish Environment Protection Agency,

(e) Historic Environment Scotland,

"decision notice" has the meaning given in regulation 19,

"development" has the same meaning as in section 54F of the Act,

"the Development Management Procedure Regulations" means the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013(**c**),

"the Directive" means Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment(**d**) as it had effect immediately before IP completion day,

"EIA development" means proposed development which is either—

(a) Schedule 1 development, or

(b) Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location,

"EIA report" has the meaning given in regulation 5,

"electronic communication" has the meaning given in section 15(1) (general interpretation) of the Electronic Communications Act 2000(**e**),

"environmental impact assessment" has the meaning given in regulation 4,

"environmental information" means—

(a) the EIA report prepared in respect of the proposed development,

(b) any additional information obtained in respect of the proposed development,

(c) any representations made by any consultation body, or other public body, consulted in respect of the proposed development in accordance with these Regulations,

(d) any representations duly made by any other person about the environmental effects of the proposed development,

"fish farming" means the breeding, rearing or keeping of fish, excluding shellfish,

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(**a**) S.S.I. 2017/102.
(**b**) OJ No L 140, 5.6.2009, p. 114.
(**c**) S.S.I. 2013/155, as amended by S.S.I. 2014/469, S.S.I. 2015/181, S.S.I. 2015/237 and S.S.I. 2015/249.
(**d**) OJ L 26, 28.1.2012, p. 1 as amended by Directive 2014/52/EU.
(**e**) 2000 c. 7, as amended by paragraph 158 of schedule 17 of the Communications Act 2003 (c. 21).

"fish farm development" means the placing or assembly of any equipment in marine waters for the purposes of fish farming ("equipment" having the same meaning as in section 26(6)(**a**)) (meaning of development) and any material change of use of equipment so placed or assembled,

"the land" means the land on which the proposed development would be carried out,

"marine waters" means the waters described in paragraphs (b) and (c) of subsection (6) of section 26 ,

"multi-stage condition" means a condition specified in a masterplan consent area scheme, where (in terms of the condition) the approval, consent or agreement of the planning authority must be obtained before all or part of the development authorised by the scheme may be begun,

"planning authority website" means a website maintained by the planning authority, *inter alia* for the purpose of making publicly available information relating to proposed development to which these Regulations apply,

"proposed development" in respect of a proposed masterplan consent area scheme, means development for which authorisation would be granted by the scheme if the scheme is made,

"register" means a register kept pursuant to section 36(**b**) (registers of applications etc.),

"relevant assessment" means, in relation to a proposed development, an assessment, or verification, of effects on the environment carried out pursuant to national legislation which is relevant to the assessment of the environmental impacts of the proposed development,

"Schedule 1 development" has the same meaning as in the 2017 Regulations,

"Schedule 2 development" has the same meaning as in the 2017 Regulations,

"scoping direction" means a direction made by the Scottish Ministers as to the scope and level of detail of information to be provided in the EIA report,

"scoping opinion" means the opinion of the planning authority as to the scope and level of detail of information to be provided in the EIA report,

"screening direction" means a direction made by the Scottish Ministers as to whether development is, or is not, EIA development,

"screening opinion" means a written statement of the opinion of the planning authority as to whether development is, or is not, EIA development.

(2) Subject to paragraph (3), expressions used both in these Regulations and in the Act have the same meaning for the purposes of these Regulations as they have for the purposes of the Act.

(3) Expressions used both in these Regulations and in the Directive (whether or not also used in the Act) have the same meaning for the purposes of these Regulations as they have for the purposes of the Directive.

(4) In these Regulations, where a planning authority prepare a revised, updated or supplementary EIA report (or a report which the planning authority refers to as such) references to an EIA report are to be treated as including a reference to that revised, updated or supplementary EIA report.

**Prohibition on making a masterplan consent area scheme without an environmental assessment**

**3.** The planning authority or the Scottish Ministers, as the case may be, must not make a masterplan consent area scheme which grants authorisation for EIA development unless an environmental impact assessment has been carried out in respect of that proposed development

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(**a**) Section 26(6) was amended by section 24(2)(a) of the Water Environment and Water Services (Scotland) Act 2003 (asp 3), section 3(1)(c) of the Planning etc. (Scotland) Act 2006 (asp 17) and S.S.I. 2007/268.

(**b**) Section 36 was amended by section 12 of the Planning etc. (Scotland) Act 2006 (asp 17), by S.S.I. 2007/268 and by S.S.I. 2009/256.

and in carrying out such assessment the planning authority or the Scottish Ministers, as the case may be, must take the environmental information into account.

**Environmental impact assessment**

**4.**—(1) An environmental impact assessment is a process consisting of—

(a) the preparation of an EIA report,

(b) the carrying out of consultation, publication and notification as required by Parts 4 and 5 and, where relevant, Part 7,

(c) the examination by the planning authority or the Scottish ministers, as the case may be, of the information presented in the EIA report and any other environmental information,

(d) the reasoned conclusion by the planning authority or the Scottish Ministers, as the case may be, on the significant effects of the development on the environment, taking into account the results of the examination referred to in sub-paragraph (c) and, where appropriate, their own supplementary examination, and

(e) the integration of that reasoned conclusion into the decision notice in accordance with regulation 19.

(2) The environmental impact assessment must identify, describe and assess in an appropriate manner, in light of the circumstances relating to the proposed development, the direct and indirect significant effects of the proposed development (including, where the proposed development will have operational effects, such operational effects) on the factors specified in paragraph (3) and the interaction between those factors.

(3) The factors are—

(a) population and human health,

(b) biodiversity, and in particular species and habitats protected under Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora(**a**) and Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds(**b**) as those Directives had effect immediately before IP completion day,

(c) land, soil, water, air and climate,

(d) material assets, cultural heritage and the landscape.

(4) The effects to be identified, described and assessed under paragraph (2) include the expected effects deriving from the vulnerability of the development to risks, so far as relevant to the development, of major accidents and disasters.

(5) Unless paragraph (6) applies, the environmental impact assessment to be carried out in relation to the making of a masterplan consent area scheme which would authorise EIA development must identify the likely significant effects of the proposed development on the environment before a decision to make the masterplan consent area scheme is made.

(6) This paragraph applies where the planning authority or the Scottish Ministers, as the case may be—

(a) consider that the likely significant effects of the proposed development on the environment are not fully identifiable at the time of their decision to make the scheme, and

(b) are minded to make authorisation for EIA development to be granted by the scheme subject to a multi-stage condition.

(7) The planning authority or the Scottish Ministers, as the case may be, must ensure that they have, or have access as necessary to, sufficient expertise to examine the EIA report.

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(**a**) OJ L 206, 22.7.1992, p. 7.
(**b**) OJ L 20, 26.1.2010, p. 7.

**Environmental impact assessment report**

**5.**—(1) An environmental impact assessment report ("EIA report") is a report prepared in accordance with this regulation in relation to proposed development to be authorised by a masterplan consent area scheme which includes (at least)—

(a) a description of the proposed development comprising information on the site, design, size and other relevant features of the proposed development,

(b) a description of the likely significant effects of the proposed development on the environment,

(c) a description of the features of the proposed development and any measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment,

(d) a description of the reasonable alternatives studied by the planning authority or the Scottish Ministers, as the case may be, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the proposed development on the environment,

(e) a non-technical summary of the information referred to in sub-paragraphs (a) to (d), and

(f) any other information specified in schedule 2 relevant to the specific characteristics of the proposed development and to the environmental features likely to be affected.

(2) Where a scoping opinion (or scoping direction) is issued, the EIA report must be based on that scoping opinion (or scoping direction, as the case may be), and include the information that may reasonably be required for reaching a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account current knowledge and methods of assessment.

(3) With a view to avoiding duplication of assessments, account is to be taken of the available results of other relevant assessments in preparing the EIA report.

(4) In order to ensure the completeness and quality of the EIA report—

(a) the planning authority or the Scottish Ministers, as the case may be, must ensure that the EIA report is prepared by competent experts, and

(b) the EIA report must be accompanied by a statement from the planning authority or the Scottish Ministers, as the case may be, outlining the relevant expertise or qualifications of such experts.

# PART 2

## Determining whether environmental impact assessment is required

**EIA development**

**6.**—(1) Subject to paragraphs (3), (4) and (6) the occurrence of an event mentioned in paragraph (2) will determine for the purpose of these Regulations that proposed development is EIA development.

(2) The events referred to in paragraph (1) are—

(a) the adoption of a screening opinion by the planning authority to the effect that the proposed development is EIA development,

(b) the making by the Scottish Ministers of a screening direction to the effect that the proposed development is EIA development,

(c) if no screening opinion has been adopted by the planning authority and no screening direction has been made by the Scottish Ministers, the preparation by the planning authority (or the Scottish Ministers) of an EIA report in relation to the proposed development.

(3) A screening direction by the Scottish Ministers determines for the purpose of these Regulations whether the proposed development is or is not EIA development (whether or not an EIA report has been prepared) and a later screening direction supersedes the terms of an earlier screening direction or screening opinion.

(4) The Scottish Ministers may direct that these Regulations do not apply in relation to a particular proposed development specified in the direction if the development comprises a project having the response to civil emergencies as its sole purpose and where in the opinion of the Scottish Ministers compliance with these Regulations would have an adverse effect on that purpose.

(5) Where a direction is given under paragraph (4) the Scottish Ministers must send a copy of the direction to the planning authority.

(6) The Scottish Ministers may in exceptional cases direct that these Regulations do not apply in relation to a particular proposed development specified in the direction where in the opinion of the Scottish Ministers compliance with these Regulations would have an adverse effect on the purpose of the proposed development.

(7) Before making a direction under paragraph (6) the Scottish Ministers must consider whether another form of assessment would be appropriate and where a direction is given the Scottish Ministers must—

(a) send a copy of the direction to the planning authority,

(b) make available to the public concerned the information considered in making the direction and the reasons for making the direction,

(c) take such steps as are considered appropriate to bring the information obtained under the other form of assessment to the attention of the public concerned.

**General provisions relating to screening**

**7.**—(1) When making a determination as to whether Schedule 2 development is EIA development, a planning authority or the Scottish Ministers, as the case may be, must take into account—

(a) such of the selection criteria set out in schedule 1 as are relevant to the proposed development, and

(b) the available results of any relevant assessment.

(2) Where a planning authority adopt a screening opinion or the Scottish Ministers make a screening direction—

(a) that screening opinion or screening direction must be accompanied by a written statement giving, with reference to the criteria set out in schedule 1 as are relevant to the proposed development, the main reasons for their conclusion as to whether the proposed development is, or is not, EIA development, and

(b) where the screening opinion or the screening direction is to the effect that proposed development is not EIA development, the statement referred to in sub-paragraph (a) must state any features of the proposed development or proposed measures envisaged to avoid or prevent significant adverse effects on the environment.

(3) As soon as possible after adopting a screening opinion the planning authority must publish a copy of the screening opinion and a copy of the written statement referred to in paragraph (2)(a) on the internet and place a copy of the screening opinion and written statement on the register.

(4) The Scottish Ministers may make a screening direction either—

(a) at their own volition, or

(b) if requested to do so in writing by any person.

(5) The Scottish Ministers may make a screening direction that a particular development of a description mentioned in column 1 of the table in schedule 2 of the 2017 Regulations is EIA development in spite of the fact that none of the conditions contained in sub-paragraphs (a) and (b)

of the definition of "Schedule 2 development" in regulation 2(1) of the 2017 Regulations is satisfied in relation to that development.

(6) As soon as possible after adopting a screening direction, the Scottish Ministers must send a copy of the screening direction and a copy of the written statement referred to in paragraph (2) to—

(a) the planning authority,

(b) where the screening direction is made following a request, to the person who made the request.

# PART 3

## Preparation of environmental impact assessment reports

### Scoping opinions

**8.**—(1) A planning authority or the Scottish Ministers may adopt a scoping opinion.

(2) A planning authority or the Scottish Ministers, as the case may be, must not adopt a scoping opinion until they have consulted—

(a) the consultation bodies,

(b) the Health and Safety Executive where they would be required to be consulted under paragraph 3 or 4 of schedule 5 (consultation by the planning authority) of the Development Management Procedure Regulations in relation to an application for planning permission for the proposed development,

(c) the Office for Nuclear Regulation where it would be required to be consulted under paragraph 3A of schedule 5 of the Development Management Procedure Regulations in relation to an application for planning permission for the proposed development, and

(d) any other public body which the planning authority or the Scottish Ministers, as the case may be, consider is likely to have an interest in the proposed development by reason of that body's specific environmental responsibilities or local and regional competencies.

(3) A later scoping opinion supersedes the terms of an earlier scoping opinion and a scoping direction supersedes the terms of an earlier scoping opinion or earlier scoping direction.

### Procedure to facilitate preparation of EIA reports

**9.**—(1) Subject to paragraphs (4) and (5), any body specified in paragraph (2) must, if requested by the planning authority or the Scottish Ministers—

(a) enter into consultation with the planning authority or the Scottish Ministers, as the case may be, to determine whether the body have in their possession any information which the planning authority (or the Scottish Ministers) or they consider relevant to the preparation of the EIA report,

(b) make such information available to the planning authority or the Scottish Ministers, as the case may be.

(2) The bodies are—

(a) the consultation bodies,

(b) any other public body which the planning authority or the Scottish Ministers, as the case may be, consider is likely to have an interest in the proposed development by reason of that body's specific environmental responsibilities or local and regional competencies.

(3) A request under paragraph (1) must include the information necessary to identify the land and the nature and purpose of the proposed development and must indicate the main environmental consequences to which the planning authority or the Scottish Ministers, as the case may be, propose to refer in the EIA report.

(4) In relation to a person to whom the Environmental Information (Scotland) Regulations 2004(**a**) apply, paragraph (1) does not require disclosure of information which the person—

(a) may refuse to disclose under regulation 10(1) (exceptions to the duty to disclose environmental information) of those Regulations,

(b) is prevented from disclosing by regulation 11(1) (personal data) of those Regulations.

(5) In relation to a person to whom the Environmental Information Regulations 2004(**b**) apply, paragraph (1) does not require disclosure of information which the person—

(a) may refuse to disclose under regulation 12(1) (exceptions to the duty to disclose environmental information) of those Regulations,

(b) is prevented from disclosing by regulation 13(1) (personal data) of those Regulations.

(6) A reasonable charge reflecting the cost of making the relevant information available may be made by any person who makes information available in accordance with paragraph (1).

# PART 4

## Publicity and notification of environmental impact assessment reports

### Notification of EIA report

**10.**—(1) Where, in relation to proposed development—

(a) the planning authority or the Scottish Ministers, as the case may be, prepare an EIA report, and

(b) there are premises situated on the neighbouring land to which the notice can be sent,

the planning authority or the Scottish Ministers, as the case may be, must give notice to the owner, lessee or occupier of such premises in accordance with this regulation.

(2) Notice under paragraph (1) is to be—

(a) in the form set out in, and completed in accordance with the notes in, schedule 3 (or in a form substantially to the like effect), and

(b) given by sending to such premises a notice addressed to "the Owner, Lessee or Occupier".

(3) For the purposes of this regulation, "neighbouring land" has the same meaning as in regulation 3(1) (interpretation) of the Development Management Procedure Regulations.

### Publication of EIA report

**11.**—(1) Where, in relation to a masterplan area consent scheme the planning authority or the Scottish Ministers, as the case may be, prepare an EIA report (including where the EIA report is prepared following a notice under regulation 14(2)) they must publish a notice in accordance with this regulation.

(2) Notice under paragraph (1) must—

(a) state that it is proposed to make a masterplan consent area scheme authorising the proposed development to which the EIA report relates,

(b) state that the proposed development is subject to environmental impact assessment and, where relevant, state that it is likely to have significant effects on the environment in an EEA state,

(c) state that the EIA report is available for inspection free of charge and the times and places at which, and the means by which, the EIA report is available for inspection,

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(**a**) S.S.I. 2004/520.
(**b**) S.I. 2004/3391.

(d) state how copies of the EIA report may be obtained,

(e) state the cost of a copy of the EIA report,

(f) state how and by what date representations may be made (being a date not earlier than 30 days after last date on which the notice is published),

(g) provide details of the arrangements for public participation in the decision making procedure including a description of how notice is to be given of any subsequent additional information and how representations in relation to that additional information may be made,

(h) state the nature of possible decisions to be taken in relation to the masterplan consent area scheme and provide details of the authority by which such decisions are to be taken.

(3) Notice under paragraph (1) must be published—

(a) on the planning authority website,

(b) in the Edinburgh Gazette,

(c) in a newspaper circulating in the locality in which the proposed development is situated.

(4) The planning authority must—

(a) place a copy of the EIA report in Part I of the register together with a copy of the related proposed masterplan consent area scheme,

(b) make copies of the EIA report and the proposed masterplan consent area scheme available for inspection—

(i) on the planning authority website, and

(ii) at an office of the planning authority where the register may be inspected.

**Consultation on EIA report**

**12.**—(1) Where a planning authority or the Scottish Ministers, as the case may be, prepare an EIA report in connection with a proposed masterplan consent area scheme (including where the EIA report is prepared following a notice under regulation 14(2)), they must—

(a) send a copy of the EIA report to the bodies mentioned in paragraph (2),

(b) consult the bodies mentioned in paragraph (2) about the EIA report and inform them how and by what date representations may be made (being a date not earlier than 30 days after the date on which the copy of the EIA report was sent).

(2) The bodies are—

(a) the consultation bodies,

(b) the Health and Safety Executive where it would be required to be consulted under paragraph 3 or 4 of schedule 5 (consultation by the planning authority) of the Development Management Procedure Regulations in relation to the application for planning permission for the proposed development,

(c) the Office for Nuclear Regulation where it would be required to be consulted under paragraph 3A of schedule 5 of the Development Management Procedure Regulations in relation to the application for planning permission for the proposed development,

(d) any other public body which the planning authority or the Scottish Ministers, as the case may be, considers are likely to have an interest in the proposed development by reason of their specific environmental responsibilities or local and regional competencies.

(3) Where a body which a planning authority or the Scottish Ministers are required to consult under this regulation considers that consultation with that body is not required in respect of any EIA report relating to any case or class of case or relating to any specified area and so inform them in writing then they are not required to consult that body under this regulation.

**Copy of EIA report for the Scottish Ministers**

**13.** Where an EIA report is prepared by a planning authority in relation to a proposed masterplan consent area scheme which is subject to a call-in direction under paragraph 14 of schedule 5A (masterplan consent areas) of the Act, the planning authority must provide the Scottish Ministers with a copy of the EIA report and, where relevant, a copy of any additional information.

**Proposed masterplan consent area scheme for EIA development called in by the Scottish Ministers**

**14.**—(1) This regulation applies where a proposed masterplan consent area scheme which is subject to a call-in direction under paragraph 14 of schedule 5A of the Act relates to EIA development and is not accompanied by an EIA report.

(2) Where this regulation applies the Scottish Ministers must notify the planning authority in writing that the submission of an EIA report is required.

(3) A planning authority who receives notice under paragraph (2) may within the period of 21 days beginning with the date of the notice write to the Scottish Ministers stating that an EIA report will be provided and may request the Scottish Ministers to make a scoping direction.

(4) If the planning authority does not write in accordance with paragraph (3), the Scottish Ministers are under no duty to deal with the proposed masterplan consent area scheme, and at the end of the 21 day period the Scottish Ministers must inform the planning authority in writing that no further action is being taken on the proposed masterplan consent area scheme.

**Availability of copies of EIA report**

**15.**—(1) Where an EIA report is prepared by a planning authority in relation to a proposed masterplan consent area scheme, the planning authority must ensure that a reasonable number of copies of the EIA report are available for inspection at any place named (by virtue of regulation 11(2)(c)) in the notice published under regulation 11(1) as a place at which copies of the EIA report may be inspected.

(2) The planning authority must provide copies of the EIA report in accordance with the terms of the notice published under regulation 11(1) and where that notice includes an address at which copies of the EIA report may be obtained a reasonable number of copies of the EIA report are to be available at that address.

(3) A reasonable charge reflecting printing and distribution costs may be made to a member of the public for a copy of an EIA report provided in accordance with paragraph (2).

# PART 5

## Additional Information

**Additional information and evidence relating to EIA reports**

**16.**—(1) This regulation applies where the planning authority or the Scottish Ministers, as the case may be, are considering making a masterplan consent area scheme which authorises EIA development.

(2) In order to ensure the completeness and quality of the EIA report, the planning authority or the Scottish Ministers, as the case may be, must (having regard in particular to current knowledge and methods of assessment) obtain supplementary information about a matter to be included in the EIA report in accordance with regulation 5(2) which in the opinion of the planning authority or the Scottish Ministers, as the case may be, is directly relevant to reaching a reasoned conclusion on the significant effects of the development on the environment and such information is referred to in these Regulations as "additional information".

**Publication of additional information**

**17.**—(1) Where additional information is obtained by the planning authority or the Scottish Ministers, regulations 10 to 12, 14 and 15 apply to such additional information as they apply to an EIA report as if references to the EIA report were references to that additional information.

(2) Paragraph (1) does not apply in relation to additional information to the extent that—

(a) the information is provided for the purposes of an inquiry held under the Act,

(b) the written requirement for the information states that it is to be provided for such purposes, and

(c) the information is required to be publicised as part of that inquiry.

# PART 6

## Availability of directions etc. and notification of decisions

**Availability of opinions, directions etc. for inspection**

**18.**—(1) Where any document mentioned in paragraph (2) is received, issued or adopted by the planning authority, the planning authority must make copies of that document available for inspection—

(a) on the planning authority website,

(b) at all reasonable hours at an office of the planning authority where the register may be inspected.

(2) The documents are—

(a) direction given under regulation 6(4) or (6),

(b) screening opinion,

(c) screening direction,

(d) scoping opinion,

(e) scoping direction,

(f) EIA report and any additional information,

(g) statement of reasons accompanying any of the above.

(3) Where particulars of a proposed masterplan consent area scheme are placed on the register, the planning authority must take steps to secure that there is also placed on the register a copy of any document mentioned in paragraph (2) which is relevant to that masterplan consent area scheme.

(4) Documents made available under paragraph (1) must remain so available for a period of two years.

**Decision notice**

**19.**—(1) Where a masterplan consent area scheme which authorises EIA development is made by a planning authority or the Scottish Ministers, the planning authority or the Scottish Ministers, as the case may be, must publish notification of the decision to make the scheme ("the decision notice") and the decision notice must include the information specified in paragraph (2).

(2) The information is—

(a) the main reasons and considerations on which the decision is based including reasons for any conditions, limitations or exceptions,

(b) information about the arrangements taken to ensure the public had the opportunity to participate in the decision making procedures,

(c) a summary of—

(i) the environmental information,

(ii) the results of the consultations and information gathered pursuant to Parts 4 and 5 and, where relevant, Part 7 and how those results, in particular comments received from an EEA State pursuant to consultation under regulation 23, have been incorporated or otherwise addressed,

(d) any conditions, limitations or exceptions to which the scheme is subject,

(e) the reasoned conclusion referred to in regulation 4(1)(d),

(f) a statement that the planning authority or the Scottish Ministers, as the case may be, are satisfied that the reasoned conclusion is still up to date,

(g) a description of any mitigation measures,

(h) a description of any monitoring measures required under regulation 20,

(i) information regarding the right to challenge the validity of the decision and the procedures for doing so.

(3) Where regulation 4(6) applies, the decision notice must describe the matters in respect of which the planning authority or the Scottish Ministers, as the case may be, consider that the effects of the proposed development are not fully identifiable at the time of their decision to make the masterplan consent area scheme.

(4) For the purposes of paragraph (2)(f) the reasoned conclusion referred to in regulation 4(1)(d) is still up to date if the planning authority or the Scottish Ministers, as the case may be, are satisfied, having regard to current knowledge and methods of assessment, that the reasoned conclusion addresses the likely significant effects of the proposed development on the environment.

(5) In this regulation "planning obligation" has the meaning given in section 75 and in this regulation and in regulation 20—

"mitigation measures" means any features of the proposed development and any measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment including any such features or measures required by virtue of—

(a) a condition or limitation to which the authorisation given by the masterplan consent area scheme is subject,

(b) a planning obligation,

"monitoring measures" means measures requiring the monitoring of any significant adverse effects on the environment of the proposed development including any such measures required by virtue of—

(a) condition or limitation to which the authorisation given by the masterplan consent area scheme is subject, or

(b) a planning obligation.

**Monitoring measures**

**20.**—(1) Where a planning authority or the Scottish Ministers are determining whether to make a masterplan consent area scheme, the planning authority or the Scottish Ministers, as the case may be, must consider whether it is appropriate to require monitoring measures to be carried out.

(2) When considering whether to require monitoring measures to be carried out, and the nature of any such monitoring measures, the planning authority or the Scottish Ministers, as the case may be, must consider—

(a) whether monitoring measures are proportionate to the nature, location and size of the proposed development and the significance of its effects on the environment having regard, in particular, to the type of parameters to be monitored and the duration of the monitoring,

(b) in order to avoid duplication of monitoring, whether monitoring arrangements required under legislation applicable in Scotland are more appropriate,

(c) if monitoring measures are to be required, whether provision should be made to require appropriate remedial action.

(3) Where the planning authority or the Scottish Ministers consider that it is appropriate to require monitoring measures they must do so.

(4) Where mitigation measures or monitoring measures are required the planning authority must take steps to ensure that those measures are implemented.

**Notification of decision**

**21.**—(1) Where a planning authority make a masterplan consent area scheme which authorises EIA development, the planning authority must, as soon as reasonably practicable—

(a) send a copy of the decision notice to the Scottish Ministers,

(b) inform the public and those bodies consulted in accordance with regulation 12(2) of the decision and where a copy of decision notice may be inspected, by publishing a notice on the planning authority website or in a newspaper circulating in the locality in which the land is situated or by such other means as are reasonable in the circumstances,

(c) make a copy of the decision notice available for public inspection—

(i) at an office of the planning authority where the register may be inspected,

(ii) on the planning authority website.

(2) Where a masterplan consent area scheme which authorises EIA development is made by the Scottish Ministers, they must send a copy of the decision notice to the planning authority.

(3) The planning authority must, as soon as reasonably practicable after notification of the decision under paragraph (2), comply with paragraph (1)(b) and (c) in relation to the decision so notified as if it were a decision of the planning authority.

# PART 7

## Special cases

**Marine fish farming**

**22.**—(1) These Regulations apply to proposed development which is fish farm development subject to the modifications specified in paragraphs (2) to (4).

(2) In regulation 2(1) (interpretation)—

(a) in the definition of "the consultation bodies" after paragraph (e) insert—

"(f) any district salmon fishery board in whose area the proposed development is to be situated,

(g) the Scottish Ministers,",

(b) after the definition of "the Directive" insert—

""district salmon fishery board" has the meaning given in section 43 of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003(**a**).".

(3) References to the land on which the proposed development is situated are to be treated as references to the location of the proposed development.

(4) Regulation 10 does not apply.

(5) Where masterplan consent area scheme relates in part to fish farm development and in part to other development, the modifications specified in this regulation apply only for the purposes of the application to the extent that it relates to fish farm development.

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(**a**) 2003 asp 15.

**Development in Scotland likely to have significant effects in an EEA state**

**23.**—(1) This regulation applies where—

(a) it comes to the attention of the Scottish Ministers that the proposed development is EIA development and is likely to have significant effects on the environment in an EEA State,

(b) an EEA State likely to be significantly affected by such development so requests.

(2) Where this regulation applies, the Scottish Ministers must—

(a) send to the EEA state, as soon as possible and no later than their date of publication in the Edinburgh Gazette referred to in paragraph (b), the particulars mentioned in paragraph (3) and, if they think fit, the information referred to in paragraph (4),

(b) publish the information in paragraph (a) in a notice placed in the Edinburgh Gazette indicating the address where further information is available,

(c) give the EEA State a reasonable time in which to indicate whether it wishes to participate in the procedure for which these Regulations provide.

(3) The particulars referred to in paragraph (2)(a) are—

(a) a description of the development, together with any available information on its possible significant effect on the environment in the EEA State,

(b) information on the nature of the decision which may be taken.

(4) Where an EEA State indicates, in accordance with paragraph (2)(c), that it wishes to participate in the procedure for which these Regulations provide, the Scottish Ministers must as soon as possible send to that EEA State the following information—

(a) a copy of the proposed masterplan consent area scheme concerned,

(b) a copy of the EIA report in respect of the proposed development,

(c) relevant information regarding the procedure under these Regulations,

but only to the extent that such information has not been provided to the EEA State earlier in accordance with paragraph (2)(a).

(5) The Scottish Ministers, insofar as they are concerned, must also—

(a) arrange for the particulars and information referred to in paragraphs (3) and (4) and any additional information in relation to the proposed development to be made available, within a reasonable time, to the authorities designated in accordance with Article 6(1) of the Directive and the public concerned in the territory of the EEA State likely to be significantly affected,

(b) ensure that those authorities and the public concerned are given an opportunity, before the masterplan consent area scheme is made, to forward to the Scottish Ministers, within a reasonable time, their opinion on the information supplied.

(6) The Scottish Ministers must—

(a) enter into consultations with the EEA State concerned regarding, amongst other things, the potential significant effects of the proposed development on the environment of that EEA State and the measures envisaged to reduce or eliminate such effects,

(b) determine in agreement with the other EEA State a reasonable period of time for the duration of the consultation period.

(7) Where an EEA State has been consulted in accordance with paragraph (6) on the making of a masterplan consent area scheme, the Scottish Ministers must inform the EEA State of the decision and forward to it a copy of the decision notice.

# PART 8

## Alteration of a masterplan consent area scheme

**Alteration of a masterplan consent area scheme**

**24.**—(1) These Regulations apply in relation to alteration of, and a proposal to alter, a masterplan consent area scheme as they apply in relation to the making, and a proposal to make, a masterplan consent areas scheme with the modifications specified in paragraph (2).

(2) The modifications are—

(a) references (however expressed)—

(i) to the making of a masterplan consent area scheme are to be treated as if they are references to the alteration of a masterplan consent area scheme,

(ii) references to a proposal to make a masterplan consent area scheme are to be treated as if they are references to a proposal to alter a masterplan consent area scheme,

(iii) to the proposed development and to the development in respect of which masterplan consent area scheme relates are to be treated as references to the proposed varied development to which the alteration of the scheme relates,

(b) schedule 2 is to be read as requiring the inclusion in an EIA report of—

(i) the main respects in which the planning authority consider that the likely significant effects on the environment of the proposed varied development would differ from those described in any EIA report, that was prepared in connection with the relevant masterplan consent area scheme,

(ii) a non-technical summary of the differences referred to in head (i).

(3) In this regulation, "proposed varied development" means the development which would be authorised by the masterplan consent area scheme if it were to be altered and which would not be authorised by the masterplan consent area scheme, or would not be authorised to be carried out in the same manner, under the masterplan consent area scheme if it were not so altered.

# PART 9

## Miscellaneous

**Electronic communications – general**

**25.**—(1) In these Regulations, and in relation to the use of electronic communications for any purpose in these Regulations which is capable of being effected electronically—

(a) the expression "address" includes any number or address used for the purposes of such communications, except that where these Regulations impose an obligation on any person to provide a name and address to any other person, the obligation will not be fulfilled unless the person on whom it is imposed provides a postal address,

(b) references to applications, reports, statements, notices, directions or other documents, or to copies of such documents, include references to such documents or copies of them in electronic form.

(2) Paragraphs (3) to (7) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send any report, statement, notice or other document to any other person ("the recipient").

(3) The requirement is deemed to be fulfilled (except in a case referred to in paragraph (4)) where the notice or other document transmitted by means of the electronic communication is—

(a) capable of being accessed by the recipient,

(b) legible in all material respects, and

(c) sufficiently permanent to be used for subsequent reference.

(4) In paragraph (3), "legible in all material respects" means that the information contained in the notice or other document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(5) Where the electronic communication is received by the recipient—

(a) at any time before the end of a day which is a working day, it is deemed to have been received on that day,

(b) at any time during a day which is not working day, it is deemed to have been received on the next working day,

and for these purposes, "working day" means a day which is not a Saturday, Sunday, Christmas Eve, a bank holiday in Scotland under the Banking and Financial Dealings Act 1971(**a**) a day appointed for public thanksgiving or mourning or any other day which is a local or public holiday in an area in which the electronic communication is received.

(6) A requirement in these Regulations that any document should be in writing is fulfilled where that document meets the criteria in paragraph (3), and "written" and cognate expressions are to be construed accordingly.

(7) Where electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send any report, statement or document, any such requirement may be complied with by sending one copy only of the report, statement or other document in question.

**Electronic communications – deemed agreement**

**26.**—(1) Any person sending a document using electronic communications is to be taken to have agreed—

(a) to the use of such communications for all purposes relating to the application which are capable of being carried out electronically,

(b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, that communication.

(2) Deemed agreement under paragraph (1) subsists until that person gives notice under regulation 27 to revoke the agreement.

**Withdrawal of consent to use of electronic communications**

**27.** Where a person is no longer willing to accept the use of electronic communications for any purpose which, under these Regulations, is capable of being carried out using such communications, that person must give notice in writing—

(a) withdrawing any address notified to the planning authority or, as the case may be, to the Scottish Ministers for that purpose, or

(b) revoking any agreement entered into or deemed to have been entered into with the planning authority or, as the case may be, with the Scottish Ministers for that purpose,

and such withdrawal or revocation will be final, and will take effect on a date specified by the person in the notice, being a date occurring after the period of seven days, beginning with the date on which the notice is given.

**Service of notice etc.**

**28.** Subject to regulations 25 to 27, any notice or other document to be served or given under these Regulations may be served or given in a manner specified in section 271 (service of notices).

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(**a**) 1971 c. 80.

**Application to Court of Session**

**29.** For the purposes of Part XI of the Act (validity), the references in section 239(1)(b) and (2) to action of the Scottish Ministers or a planning authority which is not within the powers of the Act are to be taken to extend, as the case may be, to the making of a masterplan consent area scheme by the planning authority or by the Scottish Ministers in contravention of regulation 3.

**Directions as to whether development is EIA development**

**30.** The Scottish Ministers may give directions that development which is both of a description set out in column 1 of the table in schedule 2 of the 2017 Regulations, and of a class described in the direction, is EIA development for the purposes of these Regulations.

**Competent authority – avoidance of conflict of interest**

**31.**—(1) The planning authority or the Scottish Ministers, as the case may be, are to perform their duties arising under these Regulations in an objective manner and so as not to find themselves in a situation giving rise to a conflict of interest.

(2) Where the planning authority or the Scottish Ministers, as the case may be, are to consider the making of a masterplan consent area scheme which authorises EIA development, they are to implement within their organisation of administrative competences an appropriate separation between conflicting functions when performing their duties under these Regulations.

**Co-ordination of assessments**

**32.**—(1) Where in relation to EIA development there is, in addition to the requirement for an environmental impact assessment to be carried out in accordance with these Regulations, also a requirement to carry out a Habitats Regulation Assessment, the planning authority (or the Scottish Ministers, as the case may be) must where appropriate ensure that the Habitats Regulation Assessment and the environmental impact assessment are co-ordinated.

(2) In this regulation, a "Habitats Regulation Assessment" means an assessment under regulation 48 of the Conservation (Natural Habitats, &c.) Regulations 1994(**a**).

# PART 10

## Amendments

**Amendment of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017**

**33.**—(1) The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017(**b**) are amended in accordance with paragraph (2).

(**a**) S.I. 1994/2716, regulation 48 was relevantly amended by S.I. 2007/1843, S.S.I. 2007/80 and S.S.I. 2019/113.
(**b**) S.S.I. 2017/102.

(2) In regulation 2(1) (interpretation) in the definition of "multi-stage condition" after sub-paragraph (c) insert—

"(ca) a condition specified in a masterplan consent area scheme, where (in terms of the condition) the approval, consent or agreement of the planning authority must be obtained before all or part of the development authorised by the scheme may be begun,".

*Name*
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
Date

# SCHEDULE 1

Regulation 7(1)

## SELECTION CRITERIA FOR SCREENING SCHEDULE 2 DEVELOPMENT

### Characteristics of proposed development

**1.** The characteristics of the proposed development must be considered having regard, in particular, to—

(a) the size and design of the development,

(b) cumulation with other existing development and/or approved development,

(c) the use of natural resources, in particular land, soil, water and biodiversity,

(d) the production of waste,

(e) pollution and nuisances,

(f) the risk of major accidents and/or disasters which are relevant to the project concerned, including those caused by climate change, in accordance with scientific knowledge,

(g) the risks to human health (for example due to water contamination or air pollution).

### Location of proposed development

**2.** The environmental sensitivity of geographical areas likely to be affected by the proposed development must be considered having regard, in particular, to—

(a) the existing and approved land use,

(b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground,

(c) the absorption capacity of the natural environment, paying particular attention to the following areas—

(i) wetlands, riparian areas, river mouths,

(ii) coastal zones and the marine environment,

(iii) mountain and forest areas,

(iv) nature reserves and parks,

(v) European sites within the meaning of regulation 10 of the Conservation (Natural Habitats, &c.) Regulations 1994(**a**) and other areas classified or protected under national legislation,

(vi) areas in which there has already been a failure to meet the environmental quality standards, laid down in national legislation and relevant to the project, or in which it is considered that there is such a failure,

(vii) densely populated areas,

(viii) landscapes and sites of historical, cultural or archaeological significance.

### Characteristics of the potential impact

**3.** The likely significant effects of the proposed development on the environment must be considered in relation to criteria set out in paragraphs 1 and 2 above, with regard to the impact of the proposed development on the factors specified in regulation 4(3), taking into account—

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(**a**) S.I. 1994/2716, regulation 10 was amended by S.S.I. 2004/475, S.S.I. 2015/249 and S.S.I. 2019/113.

(a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected),

(b) the nature of the impact,

(c) the transboundary nature of the impact,

(d) the intensity and complexity of the impact,

(e) the probability of the impact,

(f) the expected onset, duration, frequency and reversibility of the impact,

(g) the cumulation of the impact with the impact of other existing and/or approved development,

(h) the possibility of effectively reducing the impact.

# SCHEDULE 2

Regulation 5(1)(f)

## INFORMATION FOR INCLUSION IN ENVIRONMENTAL IMPACT ASSESSMENT REPORTS

**1.** A description of the proposed development, including in particular—

(a) a description of the location of the proposed development,

(b) a description of the physical characteristics of the whole proposed development, including, where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases,

(c) a description of the main characteristics of the operational phase of the proposed development (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used,

(d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation and quantities and types of waste produced during the construction and operation phases.

**2.** A description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the planning authority, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

**3.** A description of the relevant aspects of the current state of the environment (the "baseline scenario") and an outline of the likely evolution thereof without implementation of the proposed development as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of relevant information and scientific knowledge.

**4.** A description of the factors specified in regulation 4(3) likely to be significantly affected by the proposed development: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.

**5.** A description of the likely significant effects of the proposed development on the environment resulting from, inter alia—

(a) the construction and existence of the development, including, where relevant, demolition works,

(b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources,

(c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste,

(d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters),

(e) the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources,

(f) the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change,

(g) the technologies and the substances used.

The description of the likely significant effects on the factors specified in regulation 4(3) should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium- term and long-term, permanent and temporary, positive and negative effects of the proposed development. This description should take into account the environmental protection objectives which are relevant to the project.

**6.** A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

**7.** A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis). That description should explain the extent to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.

**8.** A description of the expected significant adverse effects of the proposed development on the environment deriving from the vulnerability of the proposed development to risks of major accidents and/or disasters which are relevant to the project concerned. Where appropriate, this description should include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

**9.** A non-technical summary of the information provided under paragraphs 1 to 8.

**10.** A reference list detailing the sources used for the descriptions and assessments included in the EIA report.

# SCHEDULE 3

Regulation 10(2)(a)

## FORM OF NOTICE UNDER REGULATION 10

## THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) SCOTLAND REGULATIONS 2017

*NOTICE UNDER REGULATION 10*

| |
|---|
| The proposed development at (a) is subject to environmental impact assessment under the Masterplan Consent Area Scheme (Environmental Impact Assessment) (Scotland) Regulations 2024.<br>Notice is hereby given that [*an EIA report] [*additional information in relation to an EIA report] has been prepared to [*obtained by] (b) relating to the proposed masterplan consent area scheme (c) in respect of (d).<br><br>Possible decisions relating to the proposed masterplan consent area scheme are:—<br>Making of the scheme without conditions,<br>Marking of the scheme with conditions,<br>Decision not to make the scheme.<br><br>A copy of the [*EIA report] [*additional information together with the EIA report], the proposed masterplan consent area scheme and other documents submitted with the proposed scheme may be inspected at all reasonable hours at the place where the register of planning applications is kept by the planning authority for the area at (e) and also at (f) during the period of [30] days beginning with the date of this notice.<br><br>Copies of the [*EIA report] [*additional information] may be purchased from (g) at a cost of (h).<br><br>Any person who wishes to make representations to (b) about the [*EIA report] [*additional information] should make them in writing within that period [*to the Council at (e)] [*to the Scottish Ministers at (i)]. |
| Signed |
| *On behalf of |
| Date |
| Notes<br>(a) Insert address for location of the development.<br>(b) Insert name of planning authority or insert the Scottish Ministers as appropriate.<br>(c) Insert name of the proposed masterplan consent area scheme.<br>(d) Insert description of proposed development. |

(e) Insert address of planning authority.

(f) Insert the website address and any other address in the locality at which the EIA report and additional information may be inspected.

(g) Insert how a copy of the EIA report or of the additional information may be obtained.

(h) Insert cost of a copy of the EIA report or additional information.

(i) Address to be supplied by the Scottish Ministers

*Delete where inappropriate.

## EXPLANATORY NOTE

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

These Regulations make provision in relation to assessment of the environmental impacts of certain projects where they are included within a masterplan consent area scheme made under schedule 5A of the Town and Country Planning (Scotland) Act 1997 ("the Act").

The Regulations impose procedural requirements in relation to the consideration of authorisation of development granted by a masterplan consent area scheme. These requirements apply where a masterplan consent area scheme grants authorisation for EIA development. Development which requires an environmental impact assessment ("EIA") is referred to in the Regulations as "EIA development" and is defined in regulation 2 by reference to established classes and criteria set out in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the 2017 Regulations").

Schedule 1 development and Schedule 2 development are defined by reference to the 2017 Regulations. All Schedule 1 development requires an EIA. Schedule 2 development requires an EIA if it is likely to have significant effects on the environment.

Regulation 3 prohibits the making of a masterplan consent area scheme which authorises EIA development unless an EIA is carried out and that the planning authority or the Scottish Ministers have first taken account of the environmental information (defined in regulation 2(1)) which is before them.

Regulation 4 sets out what the environmental assessment process comprises and regulation 5 sets out the content of an EIA report.

Part 2 sets out procedures for determining whether development is EIA development. Regulation 6 sets out which events will establish that development is EIA development. Regulation 7 makes general provision in relation to screening opinions or directions, including that any opinion or direction must be made by reference to the criteria in Schedule 1. Part 3 sets out procedures to be followed in the preparation of environmental impact assessment reports.

Regulation 8 make provision for adoption of a scoping opinion by the planning authority or by the Scottish Ministers in respect of the information to be included in an EIA report. The planning authority or the Scottish Ministers must consult bodies with environmental responsibilities before adopting a scoping opinion. Regulation 9 requires consultation bodies, if requested, to assist the preparation of an EIA report by making information available.

Regulations 10 and 11 require publication of notice of the preparation of an EIA report to be given. Regulation 12 provides for consultation where an EIA report is prepared. Regulations 13 and 15 are concerned with the provision of copies of an EIA report. Regulation 14 makes provision for where a proposed masterplan consent area scheme which is subject to a call-in direction under paragraph 14 of schedule 5A of the Act relates to EIA development and is not accompanied by an EIA report.

Part 5 (regulations 16 and 17) contains procedures in respect of the need for and publication of information additional to that contained in the EIA report.

Regulation 18 provides for documents to be placed on the planning register or otherwise made available to the public. Regulation 19 sets out the information which is to be included in notification of the making of a masterplan consent area scheme. Regulation 21 sets out how notification of the making of the scheme is to be given. Regulation 20 makes provides for the consideration of monitoring measures.

Part 7 makes provision for special cases. Regulation 22 modifies the application of the Regulations as they relate to marine fish farms. Regulation 23 provide for consultation with EEA States where development is likely to have significant effects on the environment in an EEA State.

Part 8 sets out how the Regulations are to apply in relation to the alteration of a masterplan consent area scheme. Part 9 contains miscellaneous provisions. Regulations 25 to 27 allow the use

of electronic communication. Regulation 28 provides for the service of notices under the Regulations. Regulation 29 provides that a grant of permission in contravention of regulation 3 shall be treated, for the purpose of section 239 of the Town and Country Planning (Scotland) Act 1997, as an act which is not within the powers of that Act. Regulation 30 enables the Scottish Ministers to make directions that certain classes of development are EIA development. Regulation 31 provides for avoidance of conflicts of interest and regulation 32 provides for co-ordination of assessments. Regulation 33 amends the 2017 Regulations to apply the provisions in the 2017 Regulations for multi-stage consents to such consents where required by a condition of a masterplan consent area scheme.

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