

Scotland

Country: [United Kingdom](#) [1]

EIA Law: Town and Country Planning (Scotland) Act 1997

Law Link: [Link](#) [2]

EIA Regulations: Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017

Regulations Link: [Link](#) [3]

EIA Guidelines or Other Guidance: Planning Circular 1 (2017) Environmental Impact Assessment Regulations

Guidance Link: [Link](#) [4]

Projects Requiring EIA: Government projects

Private Projects

Abridged Assessments: No

Best Practices in Lieu of EIA: No

Who Conducts Screening: Government

Who Conducts Screening Detail: Either the local planning authority or Scottish Ministers may issue a screening opinion (Authority) or direction (Ministers). EIA Regulations, sec. 6(2). Project developers may opt to simply submit an EIA in relation to a proposed development without a screening opinion or direction. Id., sec. 6(2)(c).

Criteria for Screening: List or appendix of project or activity types

Proposed project or activity may cause significant environmental impact

Criteria for Screening Detail: "EIA development" means 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 Regulations, sec. 2 (definition of "EIA Development"); also see Schedules I, II, III

Who Prepares EIA: Project Proponent (with or without contractor)

Who Prepares EIA Detail: "An EIA report is a report prepared in accordance with this regulation by the developer . . ." EIA Regulations, sec. 5(2)

Who Pays for EIA: Project Proponent

Who Pays for EIA Detail: "An EIA report is a report prepared in accordance with this regulation by the developer . . ." EIA Regulations, sec. 5(2)

EIA Contractor Qualifications: No

EIA Contractor Qualification Detail: Scotland's 2017 Town & Country Planning Regulations do not specify minimum qualifications of experts preparing an EIA, however, "the EIA report must be accompanied by a statement from the developer outlining the relevant expertise or qualifications of such experts." EIA Regulations, sec. 5(5)(b)

Conflict of Interest: No

Conflict of Interest Detail: Although Scotland's EIA laws do not contain conflict of interest provisions directed towards the entities that prepare EIA reports, the EIA regulations state: "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." EIA Regulations, sec. 52(1)

Terms of Reference: Sometimes

Terms of Reference Detail: If a project developer requests a scoping opinion, the opinion will address the "scope and level of detail of information to be provided in the EIA report[.]" EIA Regulations, secs. 5(3), 17, and definition of "scoping opinion."

Days for Decision Maker Review: 2-4 months

Automatic Approval: No

Written Decision: Yes

Written Decision Detail: A decision notice is issued. EIA Regulations, sec. 29.

Authority to Impose Conditions: Yes

Authority to Impose Conditions Details: A [d]ecision notice must include "any conditions to which the decision is subject . . ." EIA Regulations, sec. 29(2)(f)

Expiry of Decision: 3 years

Expiry of Decision Detail: Town and Country Planning (Scotland) Act 1997, sec. 58(1). This period may be modified by the planning authority.

Financial Assurances or Bond: No

Interdisciplinary Team: No

Interdisciplinary Team Detail: [T]he EIA report must be "accompanied by a statement from the developer outlining the relevant expertise or qualifications" of the experts who prepared the EIA, but there is no requirement

for an interdisciplinary team. EIA Regulations, sec. 5(5)(b)

Range of Alternatives: Yes

Range of Alternatives Detail: An EIA report must include "a description of the reasonable alternatives studied by the developer, which are relevant to the development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the development on the environment . . ." EIA Regulations, sec. 5(2)(d)

No Action Alternative: No

Type(s) of Impact Analysis: Direct environmental impacts

Cumulative environmental impacts

Social impacts

Cultural impacts

Health impacts

Mitigation: Yes

Mitigation Detail: An EIA report must contain a description of "any measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment[.]" EIA Regulations, sec. 5(2)(c); Schedule 4

Monitoring Plans: Sometimes

Monitoring Plans Detail: If planning permission is granted, the local planning authority or Scottish Ministers "must consider whether it is appropriate to require monitoring measures to be carried out." EIA Regulations, sec. 30

Public Notice of Draft EIA: No

Draft EIA Available: No

Draft EIA Locations: Not available

Public Notice of Final EIA: Yes

Public Notice of Final EIA Detail: Authorities must provide notice to the owner, lessee or occupier of land or premises adjacent to the project site. EIA Regulations, sec. 20. Notice of the availability of the EIA must also be published on the application website, the Edinburgh Gazette, and in a local newspaper. EIA Regulations, sec. 21

Final EIA Available: Yes

Final EIA Available Detail: The project developer must ensure that a "reasonable number" of copies of the EIA report are made freely available at the locations for inspection identified in the notice. EIA Regulations, sec. 25. EIA reports must be lodged on the application website and in the office of the local planning authority where the register is located. EIA Regulations, sec. 21(5)

Final EIA Locations: Internet

Local government office

Fee to View EIA Documents: No

Fee to Obtain EIA Documents: Yes

Availability of Reference Studies: No

Availability of Reference Studies Detail: An EIA must contain "[a] reference list detailing the sources used for the descriptions and assessments included in the EIA report," but the studies and data are not required to be disclosed. EIA Regulations, Schedule 4(10).

Public Notice of Final Decision: Yes

Public Notice of Final Decision Detail: The decisionmaker must publish notice of the decision on the application website or a local newspaper, and make a copy of the decision available for public inspection. EIA Regulations, sec. 31.

Public Scoping: No

Public Scoping Detail: Scoping occurs among government entities, not with the public

Public Review of TOR: No

Public Review of TOR Detail: If a project developer requests a scoping opinion, the opinion will address the "scope and level of detail of information to be provided in the EIA report[.]" EIA Regulations, secs. 5(3), 17, and definition of "scoping opinion." The public is not engaged during this step.

Public Participation Opportunities: Public Meetings and/or public hearings

Review of final EIA

Public Meetings: Sometimes

Public Meetings Detail: The Scottish Town & Country Planning Act and regulations are not clear on the criteria for holding public meetings concerning proposed development activities. The EU EIA Directive, Art. 6(5)(as amended) gives Member States discretion in this regard: "The detailed arrangements for informing the public, for example by bill posting within a certain radius or publication in local newspapers, and for consulting the public concerned, for example by written submissions or by way of a public inquiry, shall be determined by the Member States."

Public Input at Meeting: Yes

Public Input at Meeting Detail: It is presumed that if a public meeting is held, the public may make submissions. There are no regulations specifically addressing this issue, however.

Criteria to Hold Public Meeting: Ministry or agency has discretion to decide whether to hold a meeting and/or hearing

Days for Public to Review Final EIA: 30 days

Public Comments on Draft EIA: No

Public Comments on Final EIA: Yes

Public Comments on Final EIA Detail: 30 days. EIA Regulations, sec. 21(2)(f)

Response to Public Comments: Yes

Response to Public Comments Detail: The planning authority shall take into account any representations relating to that application which are received by them" Town and Country Planning (Scotland) Act 1997, sec. 38

Facilitation of Public Participation: No

Citizen Administrative Review: No

Citizen Administrative Review Detail: There are appeal options to the Secretary of State for the project developer, but not for the public. Compare secs. 47 and 239 of the Town and Country Planning (Scotland) Act.

Citizen Judicial Review: Yes

Citizen Judicial Review Detail: "Any non-governmental organisation promoting environmental protection and meeting any requirements under the law is deemed to have an interest for the purposes of Article 11(1)(a) of [EU Directive 2011/92/EU] and rights capable of being impaired for the purposes of Article 11(1)(b) of the Directive." EIA Regulations, sec. 51; see also Town and Country Planning (Scotland) Act 1997, sec. 239. Appeals are filed with the Court of Sessions.

Project Monitoring: Sometimes

Project Monitoring Detail: "Where mitigation measures or monitoring measures are required the planning authority must take steps to ensure that those measures are implemented." EIA Regulations, sec. 30(4)

Enforceability of EIA: No

Enforceability of Permit: No

Modified: July 1st, 2019

Source URL: <https://elaw.org/scotland>

Links

[1] <https://elaw.org/countries-and-regions/united-kingdom>

[2] <https://www.legislation.gov.uk/ukpga/1997/8/contents>

[3] http://www.legislation.gov.uk/ssi/2017/102/pdfs/ssi_20170102_en.pdf

[4] <https://www.gov.scot/publications/planning-circular-1-2017-environmental-impact-assessment-regulations-2017/>