



Guide to environmental impact assessments for forestry projects

Environmental Rights Centre for Scotland

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Contents

| | |
|--|----|
| 1. Introduction..... | 1 |
| 2. What is an environmental impact assessment? | 2 |
| 3. Environmental impact assessment jargon | 3 |
| 4. EIAs for forestry projects..... | 3 |
| 5. When is an EIA required for a forestry project? | 5 |
| 6. Scoping – what information should the EIA report include? | 8 |
| 7. What must an EIA Report include?..... | 9 |
| 8. Consultation bodies | 10 |
| 9. Public participation requirements | 10 |
| 10. The EIA decision | 11 |
| 11. Common problems relating to EIAs and how to address them | 12 |

1. Introduction

The Environmental Rights Centre for Scotland (ERCS) aims to increase people’s awareness of their environmental rights and to ensure that people can effectively exercise them.

Environmental Impact Assessment (EIA) is an important part of the forestry consents process in Scotland. It is designed to carefully consider the likely environmental impacts of a proposed forestry project before it is allowed to go ahead.



This guide is intended to help members of the public, community groups, and organisations to understand and engage with the EIA process for forestry projects.

This is not a comprehensive legal guide. ERCS provides free advice on environmental and related planning law — please contact us if you have a specific EIA-related query.

2. What is an environmental impact assessment?

An EIA is a process where a developer gathers certain information about the environmental impacts of a proposed development and then sends it to the relevant decision-making authority. That information is intended to allow the relevant public body to better understand the potential impacts of a proposed development before making a decision on whether it should go ahead.

EIA is often described as a ‘tool not a rule’. It does not require a public body to reach a certain decision, instead it is a process which is meant to result in a public body making more informed decisions.

One of the major flaws of the EIA process is that EIAs are carried out by developers. Developers have an interest in the development being built. To do an EIA properly takes time, costs money and can expose the potential harms which a development might cause. Sometimes developers might try to avoid doing EIAs entirely, or they may not carry out the process properly.

Some of the common problems that arise in relation to EIAs and how to address them are explained at the end of this guide.



3. Environmental impact assessment jargon

There are several terms often used in relation to EIA which are helpful to understand:

- **EIA** - the entire process of assessing the environmental effects of a forestry project.
- **EIA report** - the written material submitted to Scottish Forestry in fulfilment of the legal duty to carry out an EIA.
- **Screening** – an assessment made by Scottish Forestry on whether an EIA is required.
- **Scoping** – an assessment by Scottish Forestry on what an EIA should cover.

4. EIAs for forestry projects

The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017 ('the 2017 Regulations') govern EIAs for forestry projects.¹

The Regulations apply to the following types of projects:

- Afforestation (planting new woodland);
- Deforestation (removing woodland);
- Forest roads works;
- Forest quarries (construction of new quarries for forest roads or operations).²



[Scottish Forestry](#) (a Scottish Government agency) is the authority responsible for implementing the 2017 Regulations.

In brief, the EIA process includes the following steps:

- Application for a screening opinion;
- Application for a scoping opinion;
- Preparation of an EIA Report by the developer;
- Carrying out of consultations, publications and notifications as required by the 2017 Regulations;
- The examination of the information presented in the EIA Report and of all relevant environmental information;
- Decision whether to grant consent to the EIA project.³

Developers are not required to request screening or scoping opinions – those steps are voluntary.

An EIA should identify and assess the direct and indirect significant effects which the project will have on a number of factors. These factors include:

- Population and human health;
- Biodiversity, species and habitats;
- Land, soil, water, air and climate;
- Material assets, cultural heritage and the landscape.⁴



5. When is an EIA required for a forestry project?

An EIA is required for a forestry project when it is ‘likely to have significant effects on the environment by virtue of factors such as its nature, size or location’.⁵

The 2017 Regulations contain thresholds to identify forestry projects likely to have significant effects on the environment.

There are several different thresholds which apply to forestry projects, depending on their location and whether they are a new project or the extension of an older forestry project.

If the size of a project meets or exceeds these thresholds, then it must be ‘screened’ against the selection criteria listed in Schedule 2 of the 2017 Regulations.

A forestry project may be deemed as not likely to have a significant effect on the environment if it does not exceed the relevant threshold. However, in exceptional circumstances, Scottish Forestry may decide that an EIA is required.⁶

5.1 Thresholds for new projects in sensitive areas

Certain areas of Scotland are defined as ‘sensitive areas’ in the 2017 Regulations. These include:

- Sites of Special Scientific Interest (‘SSSIs’);
- Conservation areas;
- Natura 2000 sites (Special Areas of Conservation & Special Protection Areas).
- Ramsar Wetlands;
- World Heritage Sites;



- Scheduled monuments;
- National Scenic Areas;
- National Parks.⁷

If a new proposed forestry project is going to be located within a sensitive area, there are no thresholds, subject to the following exception.

Where the land covered by a forestry project includes all or part of a National Scenic Area (and no other sensitive area) the threshold in relation to afforestation projects is 2 hectares and deforestation projects is 0.5 hectares.⁸

5.2 Thresholds for new projects outside sensitive areas

Where no part of the land covered or proposed to be covered by the forestry project is in a sensitive area, the following thresholds are used:

- Afforestation – 20 hectares;
- Deforestation, forest road works and forest quarries – 1 hectare.

5.3 Extension of existing projects

The 2017 Regulations apply to extensions to existing forestry projects.

If an extending project is proposed, which is of the same type of project as the pre-existing project, and which meets the thresholds stated in Schedule 1, then the extending project may require a new EIA, even if the original project did not.⁹

The ‘type’ of forestry project refers to whether the project is afforestation, deforestation, forest road works or quarry works.

Different thresholds apply to extending projects depending on whether they are inside sensitive areas or outside of sensitive areas.



5.3.1 Extending existing projects in sensitive areas

Where part of the land proposed to be covered is in a sensitive area, there is no threshold unless the extending project falls into one of the following exceptions:

- For an afforestation project in a National Scenic Area the threshold is 2 hectares minus the area of the existing forestry project.
- For a deforestation project in a National Scenic Area, the threshold is 0.5 hectares minus the area of the existing forestry project.¹⁰

5.3.2. Extending existing projects in non-sensitive areas

Where no part of the project is in a sensitive area, then the following thresholds apply:

- For afforestation projects, the threshold is 20 hectares minus the area of the existing forestry project;
- For deforestation projects, forest road works and forest quarry works, the combined size is 1 hectare minus the area of the existing forestry project.¹¹

5.4 Screening opinions

A screening opinion is Scottish Forestry's decision on whether an EIA is required.

A developer may apply to Scottish Forestry to make a screening opinion.

When making screening opinions, Scottish Forestry must take into account the selection criteria listed in Schedule 2 of the 2017 Regulations.¹² They include:

- The size and design of the project;
- Cumulation with other existing forestry projects and/or approved forestry projects;



- Use of natural resources, production of waste, as well as potential pollution and nuisance which result from the project; and
- The existing and approved land use.¹³

Screening opinions must be accompanied by a written statement which refers to all the selection criteria listed in Schedule 2 which are relevant. The screening opinion must also explain the main reasons why the forestry project does or does not require an EIA.¹⁴

If an EIA is not required for the forestry project, the statement must explain what proposed measures are envisaged to avoid or prevent significant environmental effects on the environment.¹⁵

Screening opinions must be published. They should be available on [Scottish Forestry's EIA Register](#).

6. Scoping – what information should the EIA report include?

If an EIA is required for a forestry project, the developer must submit an 'EIA report' as part of their application for consent.¹⁶

Before preparing the report, the developer may request a scoping opinion from Scottish Forestry. This will set out what environmental issues must be addressed in the EIA Report.¹⁷

The request for the scoping opinion must include:

- A description of the location of the forestry project, including a plan sufficient to identify the land;



- A description of the nature and purpose of the forestry project and its likely effects on the environment;
- Any other information which the developer wishes to provide.¹⁸

Scottish Forestry must not adopt a scoping opinion until they have consulted the applicant and the relevant consultation bodies.¹⁹

Scottish Forestry may adopt a scoping opinion even if no request has been made for a scoping opinion.²⁰

7. What must an EIA Report include?

An EIA report must include the following:

- A description of the project (site, design, size);
- A description of the likely significant environmental effects;
- A description of the features of the forestry project and any measures to avoid, reduce or offset effects likely adverse effects;
- A description of reasonable alternatives considered relevant to the project and its characteristics; and
- A non-technical summary; and
- Any other relevant information specified in [Schedule 3](#).²¹



8. Consultation bodies

Once the EIA report is received, Scottish Forestry must send a copy to all the relevant consultation bodies and give them the opportunity to comment.²²

The consultation bodies relevant to forestry projects include:

- The relevant local authority;
- SEPA;
- NatureScot; and
- Historic Environment Scotland.²³

9. Public participation requirements

When an application is made for consent with an accompanying EIA Report, Scottish Forestry must publish a notice on the application website, in the Edinburgh Gazette and in a local newspaper. The notice must include:

- A description of the application and the EIA project to which the Report relates;
- A statement confirming that the project is subject to an environmental impact assessment;
- Information about where and how the application and the relevant EIA Report may be inspected, as well as details about how copies of the Report can be obtained;



- Details of how to make a representation in respect of the application for consent;
- Information about the timeframe within all representations must be made;
- Information about arrangements for public participation in the decision-making process, along with details about how notice will be given to the public if the applicant provides further information; and
- Explanation about the nature of the possible decisions which can be made in respect of the application.²⁴

A consultation period of at least 30 days must be provided for members of the public to send their comments to Scottish Forestry.²⁵

10. The EIA decision

When a decision is reached on an EIA application, Scottish Forestry must publish a decision notice which includes the following:

- The decision itself;
- The reasons behind reaching said decision, including how public representations were taken into account;
- A summary of the environmental information, and how the results were incorporated in the decision-making;
- Information on how the decision can be legally challenged, as well as information on what is the relevant procedure.²⁶



If the decision is to grant consent, the decision notice must include:

- Any conditions imposed if consent is granted, along with any mitigation measures and monitoring measures;
- A “reasoned conclusion” by the Scottish Ministers on the significant effects of the EIA project on the environment which takes into account an examination of the results presented in the EIA Report.²⁷

11. Common problems relating to EIAs and how to address them

There are a number of common problems which can arise in the EIA process.

These include:

- A forestry project which is likely to have significant effects on the environment does not require an EIA;
- A scoping opinion fails to identify the main impacts of a development;
- A screening opinion does not provide adequate reasons for their decision;
- The public participation requirements have not been met. For example, a failure to publish the EIA report or notify the relevant individuals and consultation bodies;
- Major omissions in the environmental report. For example, a failure to identify “the reasonable alternatives” to the proposed development, failure to consider the human health impacts of a development, or the failure to provide a non-technical summary; and



- Issues with the quality of the environmental report.

It is always important to check whether an EIA was prepared by “competent experts”, whether appropriate methods were used (e.g. if there is reference to a ‘desktop survey’ being done, then it is possible that the site was not visited), and whether the baseline conditions have been properly identified against which the effects of the proposed development can be assessed.

If you have concerns about the EIA process, we recommend that you take legal advice as early as possible.

Please note that **there are very short time limits for starting legal action**. The time limits are either six weeks or three months from the date of any decision or omission under challenge, depending on what is being challenged.

You can also make a complaint to Scottish Forestry in writing to raise your concerns with them. There are [instructions on Scottish Forestry’s website](#) on how to complain to them.

ERCS provides free advice to individuals, community groups and organisations on environmental and related planning law – [you can contact us by completing our online form](#).



References

¹ [The Forestry \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017.](#)

² Ibid, Regulation 2(1).

³ Ibid, Regulation 5(1).

⁴ Ibid, Regulation 5(3).

⁵ Ibid, Regulation 2(1).

⁶ Ibid, Regulation 11(2).

⁷ Ibid, Regulation 2(1).

⁸ Ibid, Schedule 1, para. 2.

⁹ Ibid, Regulation 10 & Schedule 1, Paragraphs 1, 4 & 5.

¹⁰ Ibid, Schedule 1, Paragraph 4.

¹¹ Ibid, Schedule 1, Paragraph 4.

¹² Ibid, Regulation 11(1)(a)(i)

¹³ Ibid, Schedule 2.

¹⁴ Ibid, Regulation 11(3)(a).

¹⁵ Ibid, Regulation 11(3)(b).

¹⁶ Ibid, Regulation 5(1)(a).

¹⁷ Ibid, Regulation 15(1).

¹⁸ Ibid, Regulation 15(2).

¹⁹ Ibid, Regulation 15(4).

²⁰ Ibid, Regulation 15(10).

²¹ Ibid, Regulation 6(3).

²² Ibid, Regulation 19(1)(a).

²³ Ibid, Regulation 2.

²⁴ Ibid, Regulation 18(2).

²⁵ Ibid, Regulation 18(2)(f).

²⁶ Ibid, Regulation 24(2)(a)-(e).

²⁷ Ibid, Regulation 24(2)(f).