



**Response to Scottish Executive consultation on
Revision of Circular 15/1999; the Environmental Impact Assessment (Scotland)
Regulations 1999**

29 June 2007

Homes for Scotland represents the home building and residential development industry in Scotland. Our 90 member companies build some 95% of all new homes built for sale in Scotland. Against that background Homes for Scotland is pleased to have the opportunity to comment on the revision of Circular 15/1999.

Homes for Scotland welcomes the proposed alterations insofar as they support the wider planning reform agenda which seeks to establish a speedier, more efficient planning system that provides certainty relating to the effective delivery of planning decisions

Earlier intervention by stakeholders and engagement by the applicant is advocated in the new Circular which is also consistent with the reforms.

The new Circular supports these in a number of positive ways: -

- it removes Annex A thereby eliminating ambiguity about the types of projects and their thresholds that warrant an EIA particularly with regard to the scale of housing development;
- it clarifies that "all types" of project should now be considered to require EIA rather than "major developments of local importance" again removing ambiguity;
- it clarifies the exceptions to EIA under the General Permitted Development Order. In the case of housing, this is probably most relevant to implementation of S75 commitments or to extinguishing planning conditions post consent;
- the new Annex C (Information to be included in an Environmental Statement) is helpful in that it goes further than its predecessor in relation to advice on content. Although it is a "copy of Schedule 4 of the EIA Regulations", as amended, we would take the view that Scottish Natural Heritage (SNH) published a very helpful, more expansive, EIA Handbook (available at <http://www.snh.org.uk/publications/on-line/heritagemanagement/EIA/>). There may be merit in the Circular referring practitioners to this document. SNH is a statutory consultee, is often a more conscientious objector to schemes under EIA, than other statutory consultees. As a consequence there would be considerable advantage in developers responding to their guidance in cases found to be more sensitive to the objectives of SNH than to others.

The current Circular 15/1999 at Annex A paragraph A18 applies to housing developments of over 1000 no. units or schemes of over 5Ha in area, the assumption being that this scale of housing development would cause significant environmental impacts. It presently does not consider the significant effects any scale of housing development can have on infrastructure, community facilities and delivery. Under the new Circular, the impacts of housing of any scale would now become important considerations when assessing whether an EIA is required or not, rather than the 'obvious issues' such as loss of Greenfield and landscape effects.

While this would have more onerous impacts on the Homes for Scotland member companies insofar as an EIA would move from being a voluntary process for schemes with a land take of less than 5Ha, it could, if managed correctly, drive greater certainty and clarity into the process by requiring early engagement at the screening stage of EIA with the Planning Authority and other statutory agencies (in line with the Environmental Assessment (Scotland) Act 2005).

Points of detail:

The new circular at paragraph 49-51 covers Application of the Guidance to Individual Development. Paragraph 51 states a *"particular application should not be considered in isolation if in reality it is properly to be regarded as an integral part of an inevitably more substantial development"*.

Homes for Scotland takes the view that, where cumulative impact is an issue, Strategic Environmental Assessments should have been conducted prior to the release of development platforms. Additional consideration needs to be given to this matter before the final drafting of the Circular is determined.

Outline Planning Applications:

Paragraphs 54-55 of the new circular fail to provide a definitive course of guidance, as the matter is the subject of judicial review in the European Courts.

Since EIAs require assessment of effects, these need to be measurable or quantifiable and set against a baseline from which trends or changes can be monitored. It is often impossible to be accurate about a proposed development in outline. In practice, a "worst case" is often used to assess impacts for an outline application.

However, in all cases, a planning consent will ask for the assessment of details as a matter of course in reserved matters applications. This is in effect "double assessing" and leads to the lengthening of the time taken to process applications and uncertainty in planning decisions. This is at odds with the Executive's ambitions to eradicate delays. While it is acknowledged that "separate consultation" will be undertaken later in 2007 the finalised Circular me much clearer guidance.

Annex A & B:

The screening process for Schedule 2 development will tend to force Determining Authorities to make guided decisions rather than relying on prescriptive lists/ guidance as currently exists. This will be more transparent but may lead to an over cautious approach, which appears to be contrary to what is intended. Every development will or should now be considered at screening stage on its own merits.

Figure 1:

There is a minor error in this Figure in that the box containing the wording 'Does it meet any of the relevant thresholds and criteria in Schedule 2?' needs to be linked into the Yes/ No responses with arrows.
