



Planning, Architecture and Regeneration Division
Scottish Government
2F South
Victoria Quay
Edinburgh
EH6 6QQ

17 July 2024

To whoever it may concern,

Planning - unauthorised EIA development - time limits for enforcement action: consultation

Scottish Renewables is the voice of Scotland's renewable energy industry. Our vision is for Scotland leading the world in renewable energy. We work to grow Scotland's renewable energy sector and sustain its position at the forefront of the global clean energy industry. We represent over 400 organisations that deliver investment, jobs, social benefits and reduce the carbon emissions which cause climate change.

Our members work across all renewable energy technologies, in Scotland, the UK, Europe and around the world. In representing them, we aim to lead and inform the debate on how the growth of renewable energy can help sustainably heat and power Scotland's homes and businesses.

Scottish Renewables would be keen to engage further with this agenda and would be happy to discuss our response in more detail.

Yours sincerely,

A handwritten signature in black ink that reads "Helen A. Melone". The signature is written in a cursive, flowing style.

Helen Melone
Head of Heat & Solar
Scottish Renewables

3rd Floor, 24 St Vincent Place
Glasgow, G1 2EU

01413534980
Twitter @ScotRenew
www.scottishrenewables.com

Scottish Renewables Forum Limited

A company limited by guarantee in Scotland No.200074
Registered office: 3rd Floor, 24 St Vincent Place
Glasgow G1 2EU

Consultation Questions

Q1. Are you aware of any cases where an unauthorised EIA development has become immune from enforcement action under Section 124 of the Town and Country Planning (Scotland) Act? If yes, please give further information.

No comment

Q2. Do you agree enforcement time limits as set out in Section 124 of the 1997 Planning Act should be disapplied for unauthorised EIA development?

Q3. Do you have any comments on the draft SSI contained in Annex A of this consultation?

Scottish Renewables agree that it is not acceptable that there would be no EIA where the whole of an EIA development proceeded without any planning permission and then became lawful development after 4/ 10 years. Such situations are extremely rare in the renewables sector. Scottish Renewables are, however, concerned that the effect of the draft SSI goes beyond its intended purpose, for the following reasons:

1. Where EIA development with planning permission is built largely within the permission redline boundary but strays outside that boundary, the part of the EIA development that goes beyond the redline boundary would be unauthorised development within the meaning of draft regulation 49A and therefore would not be immune from enforcement. This would be the case even if the technical breach of planning control resulted in no greater environmental effects than those assessed.

2. The drafting of regulation 49A(2) excludes "Schedule 2 development" from immunity from enforcement where no screening opinion or direction has been obtained. Schedule 2 development only constitutes EIA development where that development is "*likely to have significant effects on the environment by virtue of factors such as its nature, size or location*". We are therefore also concerned that regulation 49A(2) in effect introduces a requirement for screening for non-EIA development, because that is the only way a non-EIA development which might fall within schedule 2 could claim immunity from any enforcement action.

Q4. Do you have any comment on the circumstances in which planning authorities may retrospectively grant planning permission for unauthorised EIA development?

Q5. Do you agree with the findings of the impact assessments in Annex B of this paper or have any comments relating to these?

No comment