
STATUTORY INSTRUMENTS

1996 No. 1946

HARBOURS, DOCKS, PIERS AND FERRIES

The Harbour Works (Assessment of Environmental Effects) (Amendment) Regulations 1996

<i>Made</i>	- - - -	<i>19th July 1996</i>
<i>Laid before Parliament</i>		<i>31st July 1996</i>
<i>Coming into force</i>	- -	<i>21st August 1996</i>

The Secretary of State for Transport and the Minister of Agriculture, Fisheries and Food as respects England, the Secretary of State for Scotland as respects Scotland and the Secretary of State for Wales as respects Wales, being Ministers designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment, in exercise of the powers conferred by that section hereby make the following Regulations:—

Citation, commencement, application, revocation and extent

1.—(1) These Regulations may be cited as the Harbour Works (Assessment of Environmental Effects) (Amendment) Regulations 1996, and shall come into force on 21st August 1996.

(2) These Regulations do not apply to applications for harbour revision orders or harbour empowerment orders made prior to 21st August 1996.

(3) The Harbour Works (Assessment of Environmental Effects) Regulations 1992⁽³⁾ are hereby revoked.

(4) These Regulations shall not extend to Northern Ireland.

Amendment of Harbours Act 1964

2.—(1) Part I of Schedule 3 to the Harbours Act 1964⁽⁴⁾ shall be amended as follows.

(2) The following paragraphs shall be inserted before paragraph 1:

(1) S.I.1988/785.

(2) 1972 c. 68.

(3) S.I. 1992/1421.

(4) 1964 c. 40 Schedule 3 was amended by the Transport Act 1981 (c. 56); by the Transport and Works Act 1992 (c. 42) and by S.I. 1988/1336 and S.I. 1992/1421.

“**A1.** In this Part of this Schedule “the Directive” means Council Directive No.85/337/EEC on the assessment of the effects of certain public and private projects on the environment; and “project” has the meaning given by article 1 of the Directive.

A2.—(1) A person may not make an application for a harbour revision order which, directly or indirectly, authorises any project unless—

- (a) he has given the Secretary of State prior notice of his intention to make the application, and
- (b) the Secretary of State has responded under sub-paragraph (3) or, as the case may be, (4) below.

(2) Sub-paragraph (3) below applies where it appears to the Secretary of State that a proposed application of which he is notified under sub-paragraph (1)(a) above relates to—

- (a) a project which falls within Annex I to the Directive, or
- (b) a project which falls within Annex II to the Directive the characteristics of which require that it should be made subject to an environmental assessment.

(3) The Secretary of State shall direct the proposed applicant to supply him in such form as he may specify with the information referred to in Annex III to the Directive to the extent—

- (a) that it is relevant to any stage of the procedure set out in this Part and to the specific characteristics of the project to which the proposed application relates and of the environmental features likely to be affected by it; and
- (b) that (having regard in particular to current knowledge and methods of assessment) the proposed applicant may reasonably be required to gather that information, and including at least—
 - (i) a description of the project comprising information on the site, design and size of the project;
 - (ii) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
 - (iii) the data required to identify and assess the main effects which the project is likely to have on the environment; and
 - (iv) a non-technical summary of the information mentioned in paragraphs (i) to (iii) above.

(4) Where sub-paragraph (3) above does not apply in relation to a proposed application of which the Secretary of State is notified under sub-paragraph (1)(a) above, he shall forthwith notify the proposed applicant accordingly.”.

(3) Paragraph 1A shall be omitted.

(4) In paragraph 3:

(i) For the words from the beginning to “that is to say” there shall be substituted—

“ . . .—

(1) Where an application for a harbour revision has been duly made to the Secretary of State, the following shall be conditions precedent to the taking by him of any steps (otherwise than under this paragraph) in the matter of the application, that is to say—

- (a) compliance with any directions given under paragraph A2(3) above in response to the notice of intention to make the application;
- (b) compliance with the requirement mentioned in paragraph (a) of sub-paragraph (2) below; and

- (c) compliance with such of the requirements mentioned in paragraphs (b) to (d) of that sub-paragraph as are applicable in the circumstances.
- (2) The requirements referred to above are as follows—”; and
- (ii) for “1A”, in each place, there shall be substituted “A2”.
- (5) In paragraph 3A:
 - (i) for “It shall be the duty of the Secretary of State to” there shall be substituted “The Secretary of State shall”; and
 - (ii) for “1A above and to” there shall be substituted “A2 above and shall”.
- (6) For paragraph 4(5) there shall be substituted—
 - “(5) After considering—
 - (a) the objections (if any) made and not withdrawn;
 - (b) any information supplied under paragraph A2(3)(b) above;
 - (c) the result of any consultations under paragraph 3A above; and
 - (d) the reports of any person who held an inquiry and any person appointed for the purpose of hearing an objector,the Secretary of State may decide—
 - (i) not to make the order applied for; or
 - (ii) to make it in the form of the draft submitted to him or (subject to the restrictions imposed by sub-paragraph (6) below and by paragraph 6 below) in that form but subject to such modification as he thinks fit.”.
- (7) For paragraph 4ZA there shall be substituted:
 - “**4ZA.** Where it appears to the Secretary of State that the application relates to:
 - (a) a project which falls within Annex I to the Directive, or
 - (b) a project which falls within Annex II to the Directive the characteristics of which require that it should be subject to an environmental assessment,the Secretary of State shall publish in such manner as he thinks fit his decision whether or not to make an order and the reasons and considerations upon which his decision was based, including a statement that the matters referred to in paragraph 4(5) above have been taken into consideration.”.

Amendment of the Harbours Works (Assessment of Environmental Effects) (No. 2) Regulations 1989

3.—(1) The Harbours Works (Assessment of Environmental Effects) (No. 2) Regulations 1989(5) shall be amended as follows.

- (2) In regulation 4(1) the following sub-paragraph shall be inserted after sub-paragraph (c):

“or

 - (d) an application for approval required to be obtained in relation to any work (other than work specifically described or authorised as mentioned in regulation 3(b) and (c)) under any provision of:
 - (i) a local Act;
 - (ii) a harbour revision order made pursuant to section 14 of the Harbours Act 1964; or

- (iii) a harbour empowerment order made pursuant to section 16 of that Act, not requiring consent under section 34 of the Coast Protection Act 1949;”.
- (3) In both 4(2) and 4(3) “the appropriate Minister decides that” shall be omitted.
- (4) In regulation 4(3) for “he” there shall be substituted “the appropriate Minister”.
- (5) In regulation 4(5):
- (i) for “If the appropriate Minister decides” there shall be substituted “Where it appears to the appropriate Minister”;
- (ii) for “of his decision forthwith” there shall be substituted “accordingly”.
- (6) In regulation 5(1)—
- (i) there shall be substituted for the words from the beginning to “characteristics” the following:
“Where it appears to the appropriate Minister that the proposed harbour works constitute a project falling within Annex I to the Directive, or a project falling within Annex II to the Directive the characteristics of which;” and
- (ii) for “of his decision forthwith” there shall be substituted “accordingly”; and
- (iii) “that he considers” shall be omitted.
- (7) In regulation 7 the following paragraph shall be added:
“(5) Subsections (2) to (5) of section 250 of the Local Government Act 1972⁽⁶⁾ or subsections (2) to (8) of section 210 of the Local Government (Scotland) Act 1973⁽⁷⁾ (which relate to the giving of evidence at, and defraying the cost of, local inquiries) shall apply to an inquiry held under paragraph (4) above as they apply in relation to a local inquiry under subsection (1) of that section; but, in its application by virtue of this subparagraph, subsection (4) of the Local Government Act 1972 shall have effect with the omission of the words “any any amount”onwards.”.
- (8) At the end of regulation 8(4)(b) there shall be added “including a statement that the information provided in accordance with regulation 8(2) above has been taken into consideration”.

Signed by authority of the Secretary of State

13th May 1996

Goschen
Parliamentary Under-Secretary of State,
Department of Transport

18th May 1996

Tony Baldry
Minister of State, Ministry of Agriculture,
Fisheries and Food

22nd May 1996

Rod Richards
Secretary of State for Wales

(6) 1972 c. 70.
(7) 1973 c. 65.

19th July 1996

James Douglas-Hamilton
Minister of State for Scotland

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make minor amendments to enactments implementing, in respect of harbour works, Council Directive [85/337/EEC](#) of the 27th June 1985 (OJ No. L175, 5.7.85, p. 40) on the assessment of certain public and private projects on the environment. The amendments align the law of England and Wales and Scotland more exactly with the Directive, and provide for prior notification of applications for harbour revision orders and harbour empowerment orders which might come within the Directive. They also make provision for costs of inquiries held under the Harbour Works (Assessment of Environmental Effects) (No. 2) Regulations 1989.