

1988 No. 1241

**HIGHWAYS**

**The Highways (Assessment of Environmental Effects)  
Regulations 1988**

*Made* - - - - - *14th July 1988*  
*Coming into force* *21st July 1988*

The Secretary of State for Transport as respects England and the Secretary of State for Wales as respects Wales, being Ministers designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) 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 and commencement**

1. These Regulations may be cited as the Highways (Assessment of Environmental Effects) Regulations 1988 and shall come into force on the seventh day after the day on which they are made.

**Amendment of the Highways Act 1980**

2. After section 105 of the Highways Act 1980(c) there shall be inserted-

**“PART VA**

**ENVIRONMENTAL ASSESSMENT**

Environ-  
mental  
assessment  
of certain  
highway  
projects

**105A.—(1)** In any case where the Secretary of State has under consideration the construction of a new highway or the improvement of an existing highway, he shall determine before the date of publication of details of the project whether or not it falls within Annex I or Annex II to Council Directive No. 85/337/EEC on the assessment of the effects of certain public and private projects on the environment.

(2) If he determines that it falls within Annex I, or that it falls within Annex II and has such characteristics that it should be made subject to an environmental assessment in accordance with the Directive, he shall publish not later than the date of publication of details of the project an environmental statement, that is, a statement containing the information referred to in Annex III to the Directive to the extent that he considers-

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(a) S.I. 1988/785.  
(b) 1972 c.68.  
(c) 1980 c.66.

- (a) that it is relevant to the specific characteristics of the project 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 information may reasonably be gathered,

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;
- (iv) a non-technical summary of the information mentioned in paragraphs (i) to (iii) above.

(3) If the Secretary of State publishes an environmental statement, he shall ensure that the public concerned is given an opportunity to express an opinion before the project is initiated.

(4) If on completion of the project any part of the highway would lie on, or within 100 metres of, land comprised—

- 1949 c.97. (a) in a National Park or nature reserve within the meaning of the National Parks and Access to the Countryside Act 1949;
- 1971 c.78. (b) in a conservation area within the meaning of the Town and Country Planning Act 1971; or
- 1981 c.69. (c) in an area notified under section 28 of the Wildlife and Countryside Act 1981 as an area of special scientific interest or in relation to which the Secretary of State has made an order under section 29 of that Act,

he shall ensure that the appropriate environmental body is given an opportunity to express an opinion before the project is initiated.

(5) the Secretary of State—

- (a) shall consider—
  - (i) the environmental statement;
  - (ii) any opinion expressed by a member of the public; and
  - (iii) if the statement relates to land such as is mentioned in subsection (4) above, any opinion expressed by the appropriate environmental body; and
- (b) shall publish his decision as to whether or not to initiate the project.

(6) In this section “the appropriate environmental body” means—

- (a) the Countryside Commission, if the proposal relates to land falling within paragraph (a) of subsection (4) above;
- (b) the local planning authority, if it relates to land falling within paragraph (b); and
- (c) the Nature Conservancy Council, if it relates to land falling within paragraph (c).

(7) This section does not apply—

- (a) where a draft order or scheme relating to construction or a draft order relating to improvement is published before the coming into force of the Highways (Assessment of Environmental Effects) Regulation 1988; or
- (b) where the Secretary of State has under consideration before that date construction or improvement without an order.”.

13th July 1988

*Paul Channon*  
Secretary of State for Transport

14th July 1988

*Peter Walker*  
Secretary of State for Wales

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### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement for England and Wales Council Directive 85/337/EEC of the 27th June 1985 (OJ No. L175, 5.7.85, p.40) on the assessment of the effects of certain public and private projects on the environment, in respect of those proposals to construct new highways and to improve highways to which the Directive applies in so far as those proposals are those of the Secretary of State. The Regulations amend the Highways Act 1980. The effect of those amendments will be that in any case where the Secretary of State has under consideration the construction of a new highway or the improvement of an existing highway he shall determine before the date of publication of details of the project whether or not it requires an environmental assessment under the Council Directive. If the Secretary of State determines that the project does require such an assessment he shall publish an environmental statement and ensure that the public concerned (and if on completion of the project any part of the highway would lie on, or within 100 metres of, certain categories of land, also the appropriate environmental body) is given an opportunity to express an opinion before the project is initiated. The Secretary of State shall consider the environmental statement, any opinion expressed by a member of the public and, where obtained, by the appropriate environmental body, and publish his decision as to whether or not to initiate the project.