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STATUTORY INSTRUMENTS

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**2000 No. 2190**

**TRANSPORT AND WORKS,  
ENGLAND AND WALES  
TRANSPORT, ENGLAND AND WALES  
CANALS AND INLAND WATERWAYS,  
ENGLAND AND WALES**

**The Transport and Works (Applications and Objections  
Procedure) (England and Wales) Rules 2000**

<i>Made</i>	- - - -	<i>10th August 2000</i>
<i>Laid before Parliament</i>		<i>18th August 2000</i>
<i>Coming into force</i>	- -	<i>16th October 2000</i>

The Secretary of State for the Environment, Transport and the Regions, in exercise of the powers conferred on him by sections 6, 6A, 7(3)(b) and (c) and (4), and 10 of the Transport and Works Act 1992<sup>(1)</sup> and of all other powers enabling him in that behalf and, in so far as these Rules relate to Wales, with the agreement of the National Assembly for Wales<sup>(2)</sup>, hereby makes the following Rules:—

**Citation and commencement**

1.—(1) These Rules may be cited as the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000.

(2) These Rules shall come into force on 16th October 2000.

**Revocation**

2. Subject to rule 3 below, the Transport and Works (Applications and Objections Procedure) Rules 1992<sup>(3)</sup> (“the 1992 Rules”) are hereby revoked.

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(1) 1992 c. 42, as amended by S.I. 1995/1541 and S.I. 1998/2226.

(2) For the requirement for agreement to the exercise of functions in relation to Wales, see article 5(1) of and Schedule 2 to the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672 and the entry in Schedule 2 relating to the Transport and Works Act 1992.

(3) S.I. 1992/2902.

### Transitional provisions

3.—(1) Where an application has been made under the 1992 Rules before the date of coming into force of these Rules and the Secretary of State has not, before that date, either made an order pursuant to that application or notified the applicant that he has decided not to make such an order, the 1992 Rules shall continue to have effect in relation to that application and these Rules shall not apply in relation to it.

(2) Where these Rules apply to an application but before the date of coming into force of these Rules the applicant has, in relation to that application, served notices that he would have been required to serve pursuant to rule 3(2) and (3) of the 1992 Rules (had the 1992 Rules, applied to that application) he shall not, in relation to that application, be required to serve any notice pursuant to rule 5 of these Rules but shall, when making his application, provide with that application evidence by affidavit of compliance with rule 3(2) and (3) of the 1992 Rules, together with 3 copies of such evidence.

(3) Where these Rules apply to an application but before the date of coming into force of these Rules the applicant has, in relation to that application, published pursuant to rule 9(2) of the 1992 Rules the notice which by virtue of that rule he would have been required to serve not more than 14 days before making the application (had the 1992 Rules applied to that application), he shall not be required, in relation to that application, to publish the notice which pursuant to rule 14(2) of these Rules he would otherwise be required to publish not more than 14 days before the making of the application.

### Interpretation and notices

4.—(1) In these Rules (unless the context otherwise requires) references to sections are references to sections of the Transport and Works Act 1992 and—

“the Act” means the Transport and Works Act 1992;

“application” means an application under section 6 and “applicant” means a person making, or proposing to make, an application;

“banks”, in relation to an inland waterway referred to in a category in Schedule 2, 5 or 6 below, has the meaning given in section 72(1) of the Land Drainage Act 1991(4);

“bridleway” has the same meaning as in the Highways Act 1980(5);

“byway” means a way shown and described as a byway open to all traffic or a road used as a public path in a definitive map and statement, as defined in section 53(1) of the Wildlife and Countryside Act 1981(6);

“Crown interest” means a Crown or Duchy interest within the meaning of section 25(2);

“cycle track” has the same meaning as in the Highways Act 1980;

“the Directive” means Council Directive No.85/337/EEC on the assessment of the effects of certain public and private projects on the environment(7) as amended by Council Directive 97/11/EC(8);

“documents” includes photographs, drawings, maps and plans;

“environmental impact assessment” means an assessment, in accordance with Articles 5 to 10 of the Directive, of the likely impact upon the environment of the implementation of the works included in any order in respect of which an application is being, or is to be, made;

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(4) 1991 c. 59.

(5) 1980 c. 66.

(6) 1981 c. 69.

(7) O.J. No. L175, 5.7.85, p. 40.

(8) O.J. No. L73, 14.3.97, p. 5.

“environmental statement” means a statement that contains—

- (a) the information referred to in rule 11(1) below, and
- (b) such of the information referred to in Schedule 1 to these Rules as may reasonably be required in order to assess the environmental effects of the proposed works and which the applicant can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile,

and “applicant’s statement of environmental information” means a statement submitted by an applicant as the environmental statement in relation to his application;

“expiry date for objections” means the date, being a date not less than 42 days after the date on which the application in question is made, which the applicant specifies in the notice published pursuant to rule 14(1) below as the final date for making objections and other representations;

“footpath” has the same meaning as in the Highways Act 1980;

“highway” has the same meaning as in the Highways Act 1980;

“local authority” means a county council, a district council, (in Wales) a county borough council, a London borough council, the Common Council of the City of London, the Council of the Isles of Scilly, London Regional Transport and a Passenger Transport Executive;

“local planning authority” means a local planning authority within the meaning of Part I of the Planning Act(9);

“objection” has the meaning given by rule 22 below and “objector” shall be construed accordingly;

“occupier” means a person occupying land under a tenancy for a period of more than one month (not being a statutory tenant within the meaning of the Rent Act 1977(10) or the Rent (Agriculture) Act 1976(11)) and includes—

- (a) a statutory undertaker (not being an owner) having a right to keep equipment on, in or over land, and
- (b) a person having the right to construct or maintain, at a specific position on an inland waterway, a mooring post, gangway, landing stage or other erection or installation for a vessel (not being anything which when not in use is normally carried on the vessel);

“operator”—

- (a) in relation to a transport system, means any person carrying on an undertaking which includes the system, or any part of it, or the provision of transport services on the system, and
- (b) in relation to an inland waterway, means the navigation authority and, if different, the conservancy authority within the meaning of section 221(1) of the Water Resources Act 1991(12);

“owner”, in relation to land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land (whether in possession or reversion) and includes also a person holding, or entitled to the rents and profits of, the land under a lease or agreement, where the unexpired term of that lease or agreement exceeds 3 years;

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(9) Part I has been amended by: the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28), section 187(1) and Schedule 21, paragraph 29; the Local Government (Wales) Act 1994 (c. 19), sections 18 and 19; and the Environment Act 1995 (c. 25), sections 67 and 78 and Schedule 10, paragraph 32(2) and (3).

(10) 1977 c. 42. See section 2(1) and Schedule 1, as amended by the Housing Act 1980 (c. 51), sections 76 and 153(2) and Schedule 26, and the Housing Act 1988 (c. 50), section 39(1).

(11) 1976 c. 80. See section 4, as amended by the Rent Act 1977, section 155 and Schedule 23, and the Housing Act 1980, section 76(3).

(12) 1991 c. 57.

“pipeline owner” means—

- (a) any person in whom a pipe-line, within the meaning of section 65 of the Pipe-Lines Act 1962(13) is vested, and
- (b) any person—
  - (i) designated as the owner of a controlled pipeline, within the meaning of section 14(2) of the Petroleum Act 1998(14), by an order made by the Secretary of State under section 27 of that Act, or
  - (ii) who is entitled to operate any such controlled pipeline in relation to which no such order has been made;

“the Planning Act” means the Town and Country Planning Act 1990(15);

“public telecommunications operator” means—

- (a) any person authorised by a licence to which section 8 of the Telecommunications Act 1984(16) applies to run a public telecommunications system, and
- (b) any person to whom the telecommunications code has been applied pursuant to section 10 of that Act;

“relevant coastal authority” means, in relation to works situated, or proposed to be carried out, in tidal waters which do not lie within the boundary of the area of a local authority in England or Wales—

- (a) every local planning authority whose area has a boundary which lies within 15 kilometres of any point on the works, or
- (b) where there is no such local planning authority, the local planning authority with the area boundary closest to the works;

“representation” has the meaning given by rule 22 below;

“river” means any river (including any part of a river which is tidal or which has been canalised), lake, stream, ditch, culvert, drain, dyke, sluice, weir or any other passage by which water drains, but does not include—

- (a) a canal or inland navigation which is not a canalised part of a river,
- (b) any part of the river Tweed (as defined in section 2(7) of the Water Resources Act 1991(17)),
- (c) any part of the river Esk or river Sark at a point where either of the banks of the river is in Scotland,
- (d) any part of any tributary stream of the river Esk or river Sark at a point where either bank of such tributary stream is in Scotland, or
- (e) a public sewer or a sewer or pipe used primarily for the drainage of a building or any premises appurtenant to a building, or of a street;

“scoping opinion” means an opinion given by the Secretary of State, pursuant to rule 8 below, as to the information to be provided by an applicant in an environmental statement;

“screening decision” has the meaning given by rule 7(3) below;

“statutory undertaker” means—

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(13) 1962 c. 58.

(14) 1998 c. 17.

(15) 1990 c. 8; section 90 was amended by section 16 of the Transport and Works Act 1992.

(16) 1984 c. 12.

(17) 1991 c. 57.

- (a) any person authorised by an enactment to carry on a railway, tramway, trolley vehicle, guided transport, road transport, water transport, canal, inland navigation, harbour, pier, lighthouse, electricity supply, hydraulic power, sewerage or water undertaking,
- (b) a pipeline owner,
- (c) a public telecommunications operator,
- (d) the Post Office,
- (e) the British Airports Authority,
- (f) the Civil Aviation Authority, and
- (g) a public gas transporter within the meaning of Part I of the Gas Act 1986<sup>(18)</sup>;

“street authority” and “street managers” have the meanings given in sections 49(1) and 49(4) respectively of the New Roads and Street Works Act 1991<sup>(19)</sup>;

“tidal waters” means such part of—

- (a) the territorial sea adjacent to the United Kingdom, and
- (b) the internal waters of the United Kingdom in so far as they are tidal or constitute part of the sea,

as lie within the English area (within the meaning of article 1(2) of the Civil Jurisdiction (Offshore Activities) Order 1987<sup>(20)</sup>);

“transport system” means a railway, tramway or trolley vehicle system or a system using a mode of guided transport prescribed by an order made under section 2;

“the Trinity House” has the meaning given in section 223 of the Merchant Shipping Act 1995<sup>(21)</sup>;

“works” means any works that may be authorised by an order made under section 1, 3 or 7 but in rules 7, 8, 11 and 16 below, and in paragraphs 2, 5(c), 7(a), (d) and (e) and 12 of Schedule 8 to these Rules, shall also include any matter that may be authorised by such an order; and

“works affecting”, in relation to any land, means works proposed to be carried out in, on, over or adjacent to that land.

(2) Where these Rules require that notice be served, published or displayed in a prescribed form, the notice shall be served, published or displayed (as the case may be), duly completed—

- (a) in that form,
- (b) in a version of that form adapted to meet the circumstances of the particular case, or
- (c) in a form which has substantially the same effect as that form (whether the form is adapted or not),

and, except where these Rules require that the notice in question be published in a newspaper, duly signed by or on behalf of the person required to give the notice.

(3) A notice published pursuant to rule 14(2) and (3) below in a local newspaper circulating in Wales shall be expressed in Welsh as well as in English.

### **Preliminary notices**

5.—(1) Where an applicant proposes to make an application for an order which, if made, would authorise the carrying out of works or make provision for matters specified in any of the categories

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<sup>(18)</sup> 1986 c. 44, as amended by section 5 of the Gas Act 1995 (c. 45).

<sup>(19)</sup> 1991 c. 22.

<sup>(20)</sup> S.I. 1987/2197.

<sup>(21)</sup> 1995 c. 21.

in column (1) of the table in Schedule 2 to these Rules, the applicant shall, not later than 28 days before making an application, serve upon those named against that category in column (2) of that table a notice in the form of Form 1 in Schedule 3 to these Rules.

(2) Where the order for which application is to be made would authorise any works or other matters comprising a project for the purposes of Annex I or Annex II to the Directive or the carrying out of any other works, the applicant shall, not later than 28 days before making an application, serve a notice in the form of Form 1 in Schedule 3 to these Rules upon—

- (a) every local authority in whose area a transport system, inland waterway or other works to which the proposed application relates is or are, or is or are to be, situated, or every relevant coastal authority, as the case may be;
- (b) in the case of an application affecting land in, or adjacent to, or tidal waters in, or adjacent to, England, the Countryside Agency<sup>(22)</sup> and the Nature Conservancy Council for England<sup>(23)</sup>;
- (c) in the case of an application affecting land in, or adjacent to, or tidal waters in, or adjacent to, Wales, the Countryside Council for Wales<sup>(24)</sup>;
- (d) the Environment Agency<sup>(25)</sup>; and
- (e) the Secretary of State.

### **Provision of environmental information**

6.—(1) Subject to paragraph (2) below, where an applicant at any time serves notice on a local planning authority (other than a county planning authority), the Nature Conservancy Council for England, the Countryside Agency, the Countryside Council for Wales, the Environment Agency or any of those named in column (2) of Schedule 2 to these Rules that, for the purposes of a proposed application, he wishes to be provided with relevant environmental information—

- (a) the recipient of the notice so served, if so requested in writing by the applicant and subject to the recipient being reimbursed the reasonable cost of so doing, shall provide to the applicant any information which the recipient has and which either the recipient or the applicant considers relevant to a screening decision (if that decision has not yet been made) or to the preparation of the environmental statement; and
- (b) in the event of the recipient failing to provide such information before the end of the period of 28 days beginning with the date of such request the Secretary of State may (upon being requested to do so by the applicant) direct the recipient to provide the information and the recipient shall, upon receipt of such a direction, provide the information forthwith.

(2) Paragraph (1) above shall not require the disclosure by the recipient of information which is capable of being treated as confidential, or must be so treated, under regulation 4 of the Environmental Information Regulations 1992<sup>(26)</sup>.

### **The requirement for environmental statement and screening decisions**

7.—(1) When making an application, an applicant shall submit an applicant's statement of environmental information with that application in relation to any proposed works which are to be covered by that application, if those works constitute a project which is of a type mentioned in Annex I or, subject to paragraph (2) below, Annex II to the Directive<sup>(27)</sup>.

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(22) See sections 35 to 37 of the Regional Development Agencies Act 1998 (c. 45) and the Development Commission (Transfer of Functions and Miscellaneous Provisions) Order 1999 (S.I. 1999/416).

(23) See section 128 of the Environmental Protection Act 1990 (c. 43).

(24) See section 130 of the Environmental Protection Act 1990.

(25) See section 1(1) of the Environment Act 1995 (c. 25).

(26) S.I. 1992/3240, as amended by S.I. 1998/1447.

(27) Both Annexes are amended by Council Directive 97/11/EC.

(2) Where the proposed works constitute a project of a type mentioned in Annex II to the Directive an applicant is not required to submit an applicant's statement of environmental information if the Secretary of State has, under paragraph (13) below, notified the applicant that an environmental impact assessment is not required in relation to those works.

(3) Before making an application (other than an application relating to works constituting a project which is of a type mentioned in Annex I to the Directive), an applicant may make a request in writing to the Secretary of State for a decision as to whether or not an environmental impact assessment of the proposed works covered by the application is required (a "screening decision").

(4) A request made pursuant to paragraph (3) above shall be accompanied by—

- (a) a plan sufficient to identify the land affected by the works in question,
- (b) a brief description of the nature and purposes of the order which the applicant proposes to seek (if an application is made under rule 9 below), and
- (c) a brief description of the possible effects on the environment of the works,

and may include such other information and representations as the applicant wishes to provide or make.

(5) Unless informed in writing by the Secretary of State that he need not do so, an applicant, before submitting any request under paragraph (3) above for a screening decision, shall serve notice on—

- (a) every local planning authority in whose area the works would be carried out, were the order for which the applicant proposes to apply to be made, or the relevant coastal authority (as the case may be),
- (b) where the proposals relate to a project within tidal waters and would require a licence under Part II of the Food and Environment Protection Act 1985<sup>(28)</sup>, the Minister of Agriculture, Fisheries and Food,
- (c) the Environment Agency<sup>(29)</sup>, and
- (d) those mentioned in rule 5(2)(b) and (c) above (in the circumstances mentioned in those provisions),

of his intention to make that request and shall include in each such notice the information to be included by virtue of paragraph (4) above in a request for a screening decision.

(6) The recipient of any notice served under paragraph (5) above shall, not later than 42 days after receiving that notice, provide the applicant with a written opinion as to whether or not, in the view of the recipient, the works in question should be the subject of an environmental impact assessment.

(7) The applicant shall include with any request for a screening decision made under paragraph (3) above copies of any opinions received by him under paragraph (6) above in relation to the works which are the subject of that request.

(8) Where a request for a screening decision relates to an order which would, if made, authorise works which for the purposes of the Directive could constitute two or more projects which are not interdependent, the Secretary of State may, if he considers it expedient, treat each such project separately for the purposes of paragraphs (9) to (14) below and, in such a case, the references in those paragraphs to works shall be construed as relating to each such project separately, and the references to a screening decision shall be construed as relating to such a decision in relation to each such project.

(9) If the Secretary of State considers that the information provided by an applicant in or with a request made under paragraph (3) above is insufficient to enable him to make a screening decision

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<sup>(28)</sup> 1985 c. 48.

<sup>(29)</sup> See section 1(1) of the Environment Act 1995 (c. 25).

he shall, not later than 28 days after receiving the request, notify the applicant in writing of the additional information that he considers he requires in order to make that decision.

(10) On receiving a notification under paragraph (9) above, the applicant shall provide the Secretary of State with such of the additional information specified in that notification as the applicant is reasonably able to supply and, where any of the additional information so specified is not provided, a written explanation as to why the applicant is unable to provide that information.

(11) In making his screening decision, the Secretary of State shall take into account the selection criteria set out in Annex III to the Directive<sup>(30)</sup>.

(12) If the Secretary of State considers that the works in question would be likely to have a significant effect on the environment if carried out, his screening decision shall be that an environmental impact assessment of the works is required.

(13) The Secretary of State shall notify the applicant of his screening decision not later than 42 days after receipt of the request made pursuant to paragraph (3) above or, where a notification has been given under paragraph (9) above, not later than 42 days after receiving the further information that the applicant is required to supply by virtue of paragraph (10) above.

(14) If the Secretary of State decides that an environmental impact assessment of the works is required, he shall give reasons for that decision in the notification given under paragraph (13) above.

### Scoping opinion

**8.**—(1) Before submitting an application in relation to works for which an environmental impact assessment is or may be required, the applicant may ask the Secretary of State to state in writing his opinion as to the information to be provided in the environmental statement (a “scoping opinion”).

(2) A request under paragraph (1) above shall be accompanied by—

- (a) a plan sufficient to identify the land affected by the works in question,
- (b) a brief description of the nature and purpose of the proposed works, and
- (c) a brief description of the possible effects on the environment of the works,

and may include such other information or representations as the applicant wishes to provide or make.

(3) On receiving a request under paragraph (1), the Secretary of State shall, if he considers that he has not been provided with sufficient information to enable him to give a scoping opinion, notify the applicant in writing of the additional information that he considers he requires in order to give that opinion.

(4) The Secretary of State shall not give a scoping opinion in response to a request under paragraph (1) above until he has consulted the applicant and the following bodies—

- (a) every local planning authority in whose area the works would be carried out, were the order for which the applicant proposes to apply to be made, or the relevant coastal authority (as the case may be);
- (b) where the proposals relate to a project within tidal waters and would require a licence under Part II of the Food and Environment Protection Act 1985, the Minister of Agriculture, Fisheries and Food;
- (c) the Environment Agency<sup>(31)</sup>; and
- (d) those mentioned in rule 5(2)(b) and (c) above (in the circumstances mentioned in those provisions).

(5) In forming a scoping opinion the Secretary of State shall take into account—

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<sup>(30)</sup> Inserted by Council Directive 97/11/EC.

<sup>(31)</sup> See section 1(1) of the Environment Act 1995 (c. 25).

- (a) the specific characteristics of the works in question;
- (b) the specific characteristics of works of the type concerned; and
- (c) the environmental features likely to be affected by the works.

(6) Subject to paragraph (7) below, the Secretary of State shall notify the applicant who made the request under paragraph (1) above of his scoping opinion, in writing, not later than 42 days after receipt of that request or, where the Secretary of State has given a notification under paragraph (3) above, 42 days after receipt of the additional information mentioned in that notification.

(7) Where an applicant makes a request for a scoping opinion under paragraph (1) above at the same time as he makes a request for a screening decision pursuant to rule 7(3) above in relation to the same proposed works, or after he has made a request for such a screening decision but before the Secretary of State has notified him of the screening decision in relation to the works, the Secretary of State shall notify the applicant, in writing, of his scoping opinion not later than 42 days after the date on which he notifies the applicant of his screening decision.

(8) Where the Secretary of State has given a scoping opinion to an applicant he shall not be precluded from requiring that applicant to provide further information in connection with any applicant's statement of environmental information that may be submitted by that applicant in connection with an application relating to the same, or substantially the same, works as were referred to in that scoping opinion.

### **Form of application**

**9.**—(1) An application for an order to be made under section 1 or 3 shall be made in writing and shall be addressed to the Secretary of State.

(2) In the application the applicant shall give his name and the address to which all requests for further information, notices or other documents required to be served upon the applicant under the Act or these Rules are to be sent.

(3) The application shall be signed by—

- (a) the applicant or, where the applicant is a body corporate, a director, the secretary or a duly authorised officer of that body; or
- (b) the authorised agent of the applicant.

(4) In paragraph (3) above, “director”, in relation to a body corporate whose affairs are managed by its members, means a member of that body.

### **Documents accompanying applications**

**10.**—(1) The applicant shall submit with an application 3 copies of that application.

(2) The applicant shall submit with the application 4 copies of each of the following documents—

- (a) a draft of the proposed order;
- (b) a concise memorandum explaining the powers sought, and the other matters for which provision is to be made in the proposed order;
- (c) if the applicant is not an individual or a company regulated by the Companies Act 1985<sup>(32)</sup>, a declaration as to the status of the applicant;
- (d) evidence by affidavit of compliance with the provisions of rule 5 above (if they apply);
- (e) a list of all consents, permissions or licences required under other enactments for the purposes of the powers sought in the application, which at the date of the application are

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(32) 1985 c. 6, to which there are amendments not relevant to these Rules.

being sought or which have been obtained or refused, specifying for each relevant consent, permission or licence—

- (i) from whom the consent, permission or licence is or was required;
  - (ii) the date of the application, or of the grant or refusal of the consent, permission or licence (as the case may be); and
  - (iii) the reference number (if any) of such application;
- (f) any screening decision made by the Secretary of State under rule 7 above and any opinion given by him under rule 8 above, and, in a case where the proposed works are to be subject to an environmental impact assessment, the applicant's statement of environmental information; and
- (g) any direction made under rule 18 below.

(3) When making an application for an order containing proposals to carry out works, the applicant shall submit with the application—

- (a) such of the plans and sections described in paragraphs (1) and (3) of rule 12 below as are relevant to that application (subject to paragraph (8) of that rule);
- (b) an estimate of the cost of carrying out any works authorised by the proposed order, which shall be in the form set out in Schedule 4 to these Rules or as nearly in that form as circumstances permit; and
- (c) the applicant's proposals for funding the cost of implementing the order and, in particular, for funding the cost of acquiring land which is blighted land within the meaning of section 149 of the Planning Act.

(4) Subject to paragraph (5) below, in the case of an application for an order authorising the compulsory acquisition of land, or the right to use land, or to carry out protective works to buildings, or the compulsory extinguishment of easements and other private rights over land (including private rights of navigation over water), the applicant shall submit with the application the plan and the book of reference respectively described in paragraphs (5) and (7) of rule 12 below.

(5) In the case of an application for an order providing for the extinguishment or diversion of rights of way over a footpath, bridleway, cycle track or byway, the applicant shall submit with the application a map of a scale of not smaller than 1:2500 on which the path, way or track concerned, and, in the case of a diversion, the new path, way or track, is clearly delineated.

(6) Where the applicant seeks a direction from the Secretary of State, under section 90(2A)(33) of the Planning Act, that planning permission shall be deemed to be granted for the development proposed in the application, he shall submit with the application—

- (a) a request in writing specifying the development for which the direction for such permission is sought;
- (b) a statement of any proposed planning conditions;
- (c) a statement of any matters that are intended to be reserved for subsequent approval by the local planning authority;
- (d) in respect of those matters not intended to be reserved for subsequent approval by the local planning authority, such further documents as have not otherwise been submitted with the application and which are necessary to support the request for the direction.

(7) Where the applicant seeks a direction from the Secretary of State, under section 12(2A) of the Planning (Hazardous Substances) Act 1990(34), that hazardous substances consent shall be deemed to be granted, he shall submit with the application—

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(33) Subsection (2A) was inserted by section 16(1) of the Transport and Works Act 1992.

(34) 1990 c. 10. Section 12(2A) was inserted by section 18 of the Transport and Works Act 1992.

- (a) an application for hazardous substances consent in either Form 1 or Form 2 of the forms prescribed in Schedule 2 to the Planning (Hazardous Substances) Regulations 1992<sup>(35)</sup>, as the case may require; and
- (b) the information and documentation specified in such one or more of regulations 5(1)(b), 5(2)(b) and 5(3)(b) of those Regulations as the case may require.

(8) As soon as practicable after the date of an application, the applicant shall submit to the Secretary of State evidence by affidavit of compliance with the provisions of rules 13, 14(1) to (8) and 15 below, and shall exhibit to any such affidavit copies of notices placed in newspapers and the London Gazette (and Lloyd's List if applicable) in accordance with rule 14 below.

### **Environmental statements: provision of information**

**11.**—(1) An environmental statement submitted in connection with an application shall include—

- (a) a description of the project comprising information on the site, design and size of the proposed works;
- (b) a description of the measures proposed to be taken in order to avoid, reduce and, if possible, remedy any significant adverse effects on the environment of the proposed works;
- (c) the data required to identify and assess the main effects which the proposed works are likely to have on the environment;
- (d) an outline of the main alternatives to the proposed works studied by the applicant and an indication of the main reason for his choice, taking into account the environmental effects; and
- (e) a non-technical summary of the information provided under sub-paragraphs (a) to (d) above.

(2) An environmental statement submitted in connection with an application shall, subject to paragraph (3) below, also include so much of the information specified in Schedule 1 to these Rules as is relevant to the proposed works.

(3) Where the Secretary of State has given a scoping opinion in relation to the application, the environmental statement in relation to that application need include only the information specified in that scoping opinion.

### **Plans, sections and books of reference**

**12.**—(1) The plans referred to in rule 10(3)(a) above are—

- (a) a plan drawn to a suitable scale not smaller than 1:2500 showing clearly, in relation to existing features, the location, the alignment, if any, and (subject to paragraph (6) below) limits of deviation of the works described, or for which provision is made, in the proposed order;
- (b) where the plan described in sub-paragraph (a) above comprises 3 or more separate sheets, a key plan drawn to a suitable scale showing clearly the relationship between such sheets; and
- (c) a plan (which may be the plan described in sub-paragraph (b) above) drawn to a suitable scale not smaller than 1:50,000 showing clearly the general location of any works and, if provision is made for such works in the proposed order, in particular—
  - (i) the general line of the route of any works that are of a linear nature and which exceed 3 kilometres in length; and

- (ii) the general location, in relation to the coast or river bank, of works of a kind described in section 3(1)(b).
- (2) All plans referred to in paragraph (1) above shall contain a reference to the National Grid base or, where this is not practicable, to the latitude and longitude of the site of the proposed works.
- (3) The sections referred to in rule 10(3)(a) above are sections having a suitable vertical scale not smaller than 1:500 and showing, by reference to Ordnance Survey or Chart datum—
- (a) on the same horizontal scale as the plan described at paragraph (1)(a) above, the levels of the proposed works, including in particular where relevant—
    - (i) ground levels;
    - (ii) the height of every intended bridge, viaduct, aqueduct, embankment and elevated guideway;
    - (iii) the depth of every intended cutting and tunnel;
    - (iv) the levels of the bed of any tidal waters or inland waterway in which it is proposed any works should be situated; and
    - (v) the height of every structure or device (including a cable) intended to be erected above, on or below the surface of, or on or beneath the bed of, tidal waters or an inland waterway;
  - (b) on a horizontal scale not smaller than 1:500, the span and vertical clearance of every intended bridge, viaduct, aqueduct, gantry and other structure or device (including a cable) above ground level, for which provision is made in the proposed order;
  - (c) in cross-section, on a horizontal scale not smaller than 1:500, the depths and water levels of every intended inland waterway, for which provision is made in the proposed order;
  - (d) on a horizontal scale not smaller than 1:500, a cross-section of every intended tunnel, for which provision is made in the proposed order; and
  - (e) on a horizontal scale not smaller than 1:500, any altered gradient of a carriageway or a way forming part of a guided transport system on either side of every level crossing, bridge, tunnel or underpass which would carry the carriageway or way or through which it would pass, for which provision is made in the proposed order.
- (4) In paragraph (3) above “cable” does not include catenary and related equipment for guided transport systems.
- (5) The plan referred to in rule 10(4) above is a plan drawn to a suitable scale not smaller than 1:2500 (and which may be the plan described in paragraph (1)(a) above) showing clearly the land—
- (a) over which it is proposed to acquire powers of compulsory acquisition, or any right to use the land or to carry out protective works to buildings;
  - (b) in relation to which it is proposed that easements and other private rights (including private rights of navigation over water) shall be extinguished;
  - (c) of which the applicant is the sole owner and occupier, and which it is proposed shall be used for the purposes of the order for which application is being made; and
  - (d) in which there subsists a Crown interest, whether or not there are other interests in such land, and which it is proposed shall be used for the purposes of the proposed order.
- (6) Where the proposed order includes the power to make lateral deviation from the line of any proposed works (other than within the boundaries of a street)—
- (a) the limits of such deviation shall be clearly shown upon the plan described at paragraph (1)(a) above; and

- (b) the plan described in paragraph (5) above shall show clearly all land within those limits of deviation which it is proposed shall be subject to powers of compulsory acquisition or the right to use the land or to carry out protective works to buildings, or in relation to which it is proposed that easements or other private rights (including private rights of navigation over water) shall be extinguished.
- (7) The book of reference referred to in rule 10(4) above is a book which refers to the plan described in paragraph (5) above and which (subject to the provisions of paragraph (9) below)—
- (a) contains the names of all those who were, at the beginning of a period of 28 days ending on the date of the application, owners or occupiers of the land which it is proposed shall be subject to—
- (i) powers of compulsory acquisition,
  - (ii) rights to use land, or
  - (iii) rights to carry out protective works to buildings,
- and of all those who were, at the beginning of that period, entitled to enjoy easements and other private rights over land (including private rights of navigation over water) which it is proposed shall be extinguished;
- (b) where there is a Crown interest in land which it is proposed shall be used for the purposes of the order for which application is being made, specifies the owner of that interest;
- (c) specifies land—
- (i) the acquisition of which is subject to special parliamentary procedure;
  - (ii) which is Green Belt land within the meaning of section 2 of the Green Belt (London and Home Counties) Act 1938<sup>(36)</sup>;
  - (iii) for which other land is to be given in exchange;
  - (iv) that is to be given in exchange for other land;
  - (v) which is within a European site or a European marine site, as those expressions are defined in regulations 2(1) and 10(1) of the Conservation (Natural Habitats, &c.) Regulations 1994<sup>(37)</sup>;
  - (vi) which is within an area of outstanding natural beauty, designated as such by an order made by the Countryside Agency, as respects England, or the Countryside Council for Wales, as respects Wales, under section 87 of the National Parks and Access to the Countryside Act 1949<sup>(38)</sup>;
  - (vii) which is within a National Park within the meaning of the National Parks and Access to the Countryside Act 1949;
  - (viii) which is a property appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage<sup>(39)</sup>;
  - (ix) which is within the Broads<sup>(40)</sup>;
  - (x) which is a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979<sup>(41)</sup>;

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<sup>(36)</sup> 1938 c. xciii.

<sup>(37)</sup> S.I. 1994/2716, as amended by S.I. 2000/192.

<sup>(38)</sup> 1949 c. 97.

<sup>(39)</sup> See Command Paper 9424.

<sup>(40)</sup> See the Norfolk and Suffolk Broads Act 1988 (c. 4).

<sup>(41)</sup> 1979 c. 46. See the definition in section 1(11).

- (xi) which has been notified under section 28(1) (areas of special scientific interest) of the Wildlife and Countryside Act 1981<sup>(42)</sup>;
- (xii) to which section 29(3) (nature conservation orders) of the Wildlife and Countryside Act 1981 applies; and
- (d) specifies, for each plot of land identified in it and within which it is intended that all or part of the proposed works, or any part of a proposed work, shall be carried out, the area in square metres of that plot.
- (8) Where provision is made in the proposed order for any works which are—
  - (a) proposed to be formed or constructed for the accommodation of an owner or occupier of land adjacent to a proposed transport system or inland waterway, or
  - (b) ancillary to a proposed transport system, inland waterway or works of a kind described in section 3(1)(b),

the applicant shall not be obliged to show them as required by paragraphs (1) and (3) above but shall give such indication of them as is reasonably practicable.

(9) Where the name of an owner or occupier of land cannot be ascertained after reasonable enquiry has been made, the applicant shall not be obliged to specify such information in the book of reference but shall indicate clearly in the book of reference that this information has, or might have, been omitted.

(10) Subject to paragraph (9) above, where the applicant has made all reasonable enquiries in order to attempt to obtain the information mentioned in paragraph (7) above, the application shall not be invalidated by reason only of an error in, or the omission of information from, the book of reference.

### **Deposit of copy application, etc, with others**

13.—(1) The applicant shall serve a copy of the application and of every document that these Rules require shall accompany it, together with a statement containing the information set out in paragraph (6)(h) below, upon—

- (a) every local authority in whose area a transport system, inland waterway or other works to which the application relates is or are (or is or are to be) situated or, where the application relates only to a part of such system, waterway or works, upon every local authority in whose area such part is (or is to be) situated,
- (b) every relevant coastal authority, and

shall deposit copies of the application, those documents and that statement in the library of the House of Commons and, unless the Secretary of State directs otherwise, in the library of the House of Lords.

(2) Where the application relates to works of a kind described in section 3(1)(b), the applicant shall serve a copy of the application and of every document (other than a copy of a document) which is required by these Rules to accompany it, together with a statement containing the information set out in paragraph (6)(h) below, upon the Trinity House.

(3) In the case of an application for an order authorising the works or other matters specified in any of the categories in column (1) of the table in Schedule 5 to these Rules, the applicant shall serve upon those named against such category in column (2) of that table a copy of the application and copies of the relevant documents.

(4) The applicant shall not be obliged by virtue of this rule to serve upon anyone more than one copy of the same document.

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<sup>(42)</sup> 1981 c. 69, as amended by the Wildlife and Countryside (Amendment) Act 1985 (c. 31), the Wildlife and Countryside (Service of Notices) Act 1985 (c. 59), the Norfolk and Suffolk Broads Act 1988 (c. 4) and the Planning (Consequential Provisions) Act 1990 (c. 11).

(5) All documents required to be served upon anyone by virtue of this rule shall be so served forthwith after the making of the application.

(6) In this rule, “relevant documents” means—

- (a) the draft of the proposed order;
- (b) the memorandum required by rule 10(2)(b) above;
- (c) a copy of any direction given under rule 18;
- (d) in the case of categories 1 to 6, 8, 10 and 14 to 21 in the table in Schedule 5 to these Rules, any screening decision, scoping opinion and applicant’s statement of environmental information relating to the application that has been made;
- (e) in the case of category 10 in the table in Schedule 5 to these Rules, the map referred to in rule 10(5) above;
- (f) in the case of categories 1 to 4, 7 and 9 to 11 in the table in Schedule 5 to these Rules, the estimate referred to in rule 10(3)(b) above;
- (g) such of the plans and sections described in rule 10 above as these Rules require shall accompany the application and as are relevant to the category in the table in Schedule 5 to these Rules under which the copy application is served; and
- (h) a statement specifying the capacity (or, if there is more than one, the capacities) in which the recipient is served, the expiry date for objections and the address to which an objection is to be sent.

### **Publicity for application**

**14.**—(1) The applicant shall, after the application has been made, publish forthwith in the London Gazette (and, if the application relates to works of a kind referred to in section 3(1)(b), and the Secretary of State so directs, in Lloyd’s List) a notice of the application, which shall—

- (a) state the name of the applicant and the address given pursuant to rule 9(2) above;
- (b) state to whom the application has been made;
- (c) summarise the main proposals and specify the location of the proposed works (if any); and
- (d) state the address to which objections are to be sent and the expiry date for objections.

(2) The applicant shall publish, in the newspapers prescribed by paragraph (3) below, a notice in the form of Form 2 in Schedule 3 to these Rules, such notice to be published on 2 separate occasions, the first publication to be not more than 14 days before, and not later than, the date of the application and the second to be not more than 7 days after the date of the application.

(3) The newspapers referred to in paragraph (2) above are—

- (a) in the case of an application relating to works situated, or proposed to be carried out, in tidal waters and not lying within the area of a local authority, a local newspaper circulating in the area of each relevant coastal authority; and
- (b) in every other case, a local newspaper circulating in each area in which the proposals contained in the application are intended to have effect.

(4) In the case of an application for an order authorising the works or other matters specified in any of the categories in column (1) of the table in Schedule 6 to these Rules, the applicant shall, forthwith after the application has been made, serve upon those named against such category in column (2) of that table a notice containing the information specified in paragraph (5) below, and every notice served under the provisions of this paragraph shall state the capacity (or, if there is more than one, the capacities) in which the recipient of the notice is served.

(5) The information referred to in paragraph (4) above is—

- (a) the name of the applicant,
- (b) to whom the application has been made, and the address to which objections are to be sent,
- (c) a concise summary of the matters for which provision is to be made in the order for which application has been made (including, in a case to which paragraph (6) or (7) of rule 10 above applies, a statement that deemed planning permission or deemed hazardous substances consent, as the case may be, has been sought),
- (d) the names of all places, which shall be places within the area to which the proposals in the proposed order relate (or as close as reasonably practicable to that area), where a copy of the application and of the documents which are required by these Rules to accompany it may be inspected free of charge at all reasonable hours until the expiry date for objections, and
- (e) a statement that, until that date, any objection to the making of the order, or any other representation in relation to it, may be made by writing, stating the grounds for the objection or representation, to the Secretary of State at the address specified pursuant to sub-paragraph (b) above,

but in the case of a notice required to be published in a local newspaper it shall not be necessary for the notice to include any information pursuant to sub-paragraph (c) or (d) above concerning a proposal contained in the application which is not relevant to the area in which such newspaper circulates.

(6) In the case of an application for an order authorising works the applicant shall, forthwith after the application has been made, display a notice in the form of Form 3 in Schedule 3 to these Rules upon, or as close as reasonably practicable to, the proposed sites of those works at a place accessible to the public and, where the order for which application has been made would include linear works exceeding 5 kilometres in length, such a notice shall be displayed at intervals of not more than 5 kilometres along the whole of the proposed route of the works.

(7) Where the order for which application has been made would authorise—

- (a) the extinguishment or diversion (whether such diversion would be permanent or temporary) of a public right of way, or
- (b) the stopping-up or diversion of a street, or a restriction on the use of a street by any person or traffic, whether such stopping-up, diversion or restriction would be permanent or, in the case of a street specifically named in the proposed order, temporary,

the applicant shall, forthwith after the application has been made, display a notice in the form of Form 4 in Schedule 3 to these Rules, upon the right of way or street at, or as close as is reasonably practicable to, each point of extinguishment, diversion, stopping-up or restriction.

(8) In the case of an application for an order providing for the discontinuance of all railway passenger or tramway services from any station, or upon any line, to which the provisions of sections 37 to 39 (inclusive) of, or Schedule 5 to, the Railways Act 1993<sup>(43)</sup> apply, the applicant shall, forthwith after the application has been made, display a notice in the form of Form 5 in Schedule 3 to these Rules at every station or tram stop to be closed and at every station directly served by an advertised service running from any station to be closed.

(9) The applicant shall use his best endeavours to ensure that every notice displayed under the provisions of paragraphs (6) to (8) above shall continue to be displayed in a legible form until the expiry date for objections.

(10) The applicant shall supply a copy of the application, or of any document that these Rules require shall accompany an application, to any person who requests such a copy, subject to the payment by that person of a reasonable charge for the provision of that copy, and the applicant shall

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(43) 1993 c. 43.

ensure that information as to how such copies may be obtained is displayed at every place at which copies of the application and those documents are made available for inspection.

### **Notices to owners and occupiers**

**15.—**(1) The applicant shall, forthwith after the application has been made, serve a notice in the form of Form 6 in Schedule 3 to these Rules (in this rule referred to as “Form 6”) upon all those, other than the applicant and the owner of any Crown interest, named in the book of reference described in rule 12(7) above.

(2) In every case to which the provisions of rule 12(9) above apply, the applicant shall, forthwith after the application has been made, serve a notice in the form of Form 6 in the manner provided by section 66(4)(a) and (b).

### **Development likely to have significant effects on the environment in another part of the United Kingdom or certain other states**

**16.—**(1) This rule applies where an application for an order under section 1 or 3 has been made and—

- (a) it appears to the Secretary of State that the application relates to proposed works which would be likely to have significant effects on the environment in Scotland, Northern Ireland, the Isle of Man, or the Channel Islands;
- (b) it appears to the Secretary of State that the application relates to proposed works which would be likely to have significant effects on the environment in another Member State; or
- (c) another Member State whose environment is likely to be affected significantly by the proposed works to which the application relates requests information relating to the application.

(2) In a case falling within paragraph (1)(a) above, the applicant shall publish, if so directed by the Secretary of State, the information specified in paragraphs (1)(a) to (d) and (5)(c) and (d) of rule 14 above (as the Secretary of State may direct) in such newspapers circulating in the place in question as the Secretary of State may specify.

(3) In a case falling within paragraph (1)(b) or (c) above, the Secretary of State shall—

- (a) send to the Member State in question, as soon as is reasonably possible and in any event no later than the date of the publication of a notice in the London Gazette, pursuant to rule 14(1) above, in relation to the application in question or, in a case falling within paragraph (1)(c) above, no later than 7 days after receiving a request from the Member State in question, the information mentioned in paragraph (4) below; and
- (b) give the Member State in question a reasonable time in which to indicate whether it wishes to participate in the procedure for the consideration of the application in question.

(4) The information referred to in paragraph (3)(a) above is—

- (a) a description of the proposed works, together with any information the Secretary of State has in connection with the application as to the possible significant effects of the works on the environment of the Member State in question; and
- (b) information on the nature of the decision which may be taken.

(5) Where a Member State has indicated, in accordance with paragraph (3)(b) above, that it wishes to participate in the procedure for the consideration of the application the Secretary of State shall, as soon as is reasonably possible, send to the state in question (in so far as these documents and information have not already been supplied to that state)—

- (a) a copy of the application;

- (b) a copy of the applicant's statement of environmental information; and
  - (c) any relevant information regarding the procedure for the consideration of the application and for undertaking an environmental impact assessment of the proposed works in question.
- (6) In a case falling within paragraph (1)(b) or (c) above, the Secretary of State shall also—
- (a) arrange for the documents and other information referred to in paragraphs (4) and (5) above to be made available, within a reasonable time, to the authorities referred to in Article 6(1) of the Directive and to the members of the public in the territory of the Member State likely to be affected significantly;
  - (b) ensure that those authorities and the members of the public concerned are given an opportunity, before any order is made authorising the works in question, to forward to the Secretary of State, within a reasonable time, their opinion on the information supplied;
  - (c) enter into consultations with the Member State in question, regarding any potential significant effects of the proposed works on the environment of that Member State, the measures envisaged to reduce or eliminate such effects and such other matters relating to the proposed works as may be relevant to that Member State; and
  - (d) provide, in agreement with the other Member State, a reasonable period of time for such consultations to take place before taking any decision as to whether or not to make the order in question.
- (7) Where a Member State has been consulted in accordance with paragraph (6)(c) above, the Secretary of State shall inform that Member State of his decision as to whether or not the order in question should be made and shall send to that Member State a statement of—
- (a) the content of the decision and any conditions attached to the decision;
  - (b) the main reasons for the decision and considerations on which it is based; and
  - (c) a description, where relevant, of the main measures that the applicant is to be required to take in order to avoid, reduce and, if possible, remedy any major adverse environmental effects of the works.

#### **Further documents, information and notices**

17.—(1) Where, in the opinion of the Secretary of State, the applicant's statement of environmental information should contain any additional information in order to constitute an environmental statement for the purposes of the application in question, the Secretary of State shall direct the applicant to supply that information.

(2) Without prejudice to paragraph (1) above, the Secretary of State, when considering an application in relation to which an applicant's statement of environmental information has been provided, may direct the applicant to provide such further information as may be specified concerning any matter which is required to be, or may be, dealt with in the environmental statement.

(3) Where any such direction as is mentioned in paragraph (1) or (2) above has been given by the Secretary of State, the applicant shall comply with the requirements of that direction within such period as may be specified in that direction by the Secretary of State, or if no such period is specified as soon as is reasonably practicable to do so.

(4) Where information is provided by the applicant pursuant to paragraphs (1) to (3) above, the applicant shall—

- (a) publish, in the newspapers prescribed by rule 14(3) above circulating in the areas to which the information is relevant, a notice in the form of Form 7 in Schedule 3 to these Rules;
- (b) serve a copy of the information on each person on whom, in accordance with these Rules, a copy of the applicant's statement of environmental information was served;

- (c) provide a copy or an additional copy of the information, or any part of the information, to any person who requests it, subject to the payment by that person of a reasonable charge for the provision of any such copy or additional copy; and
- (d) provide the Secretary of State with 4 copies of the information.

(5) The Secretary of State may direct an applicant to produce such evidence to verify any information in the applicant's statement of environmental information or in any further information provided as a consequence of a direction given under paragraph (1) or (2) above as the Secretary of State may reasonably require.

### **Waiver of requirements in relation to applications**

**18.**—(1) An applicant may, at any time before or after making an application, submit a request, in writing, to the Secretary of State for a direction that any provision contained in rules 5, 9, 10 (other than paragraph (2)(f) of rule 10) and 12 to 15 shall not apply (or shall apply in part only) to an application he has made or proposes to make.

(2) A request made under paragraph (1) above shall give reasons for the request.

(3) Where a request is made under paragraph (1) above the Secretary of State may, where he is satisfied that it is impossible, impracticable or unnecessary for the applicant to comply with any provision contained in the rules mentioned in paragraph (1) above—

- (a) direct that the provision in question shall not apply, or shall apply in part only, to the application in question; and
- (b) whether or not a direction has been given pursuant to sub-paragraph (a) above, direct that the applicant shall comply with the provision in question, or any part of it, at such later date as may be specified in the direction.

### **Compliance with rules which would not otherwise apply**

**19.**—(1) Where an applicant would not otherwise be required to comply with any provision contained in rules 5, 10 and 12 to 15 above but the Secretary of State is of the view that it would be appropriate to require the applicant to comply with that provision, the Secretary of State may serve notice on the applicant requiring him to comply with the provision in question.

(2) A notice served under paragraph (1) above—

- (a) shall give reasons for requiring the applicant to comply with the provision in question; and
- (b) may only be served before an application is made or during the period of 42 days following the date of application.

(3) Where, as a consequence of a notice served under paragraph (1) above, the applicant is required to submit or serve a document or serve, publish or display a notice, the applicant shall comply with that requirement within such period as may be specified in the notice served upon him.

### **Fees for applications**

**20.**—(1) Upon the making of an application the applicant shall pay a fee to the Secretary of State calculated in accordance with Schedule 7 to these Rules.

(2) In the circumstances specified in paragraph (3) below, an applicant may make a written request to the Secretary of State, for the repayment of any part of the fees paid pursuant to paragraph (1) above in relation to an application.

(3) The circumstances are—

- (a) where, on a motion moved by a Minister of the Crown pursuant to section 9(4), either House of Parliament declines to pass a resolution approving proposals contained in the proposed order in question; or
  - (b) where the application is withdrawn before the expiration of the time limit specified in paragraph (4) below (whether or not a motion pursuant to section 9(4) is to be, or has been, moved in relation to the application in question).
- (4) The time limit is—
- (a) in the case of an application in relation to which, pursuant to rule 4(1) of the Transport and Works (Inquiries Procedure) Rules 1992(44), the Secretary of State has given notice of his intention to hold a public inquiry, the expiration of the period of 14 days commencing with the date on which any such inquiry is closed;
  - (b) in the case of an application in relation to which the Secretary of State has given to any person the opportunity of appearing before and being heard by a person appointed by the Secretary of State pursuant to section 11(1), the expiration of the period of 14 days commencing with the date on which the person appointed ceases to hear any representations made to him as a consequence of that opportunity being afforded;
  - (c) in the case of an application in relation to which the provisions of rule 25 below apply, the end of the day on which is completed the latest of such of the time periods specified in paragraphs (2) to (4) of that rule as shall apply to that application; or
  - (d) in any other case, the end of the operative date.
- (5) Where a request is made pursuant to paragraph (2) above, the Secretary of State shall repay to the applicant such portion (if any) of the fee paid as the Secretary of State shall consider appropriate.
- (6) In this rule “the operative date” has the same meaning as in rule 24 below.

### **Orders made by the Secretary of State under section 7**

**21.** Schedule 8 to these Rules (which imposes duties and powers on the Secretary of State in relation to cases in which the Secretary of State is proposing to make an order under section 7) shall have effect.

### **Objections and representations: general**

**22.—**(1) Subject to paragraph (2) below, an objection or representation made in relation to an application shall only be an objection or representation for the purposes of these Rules if it—

- (a) is received by the Secretary of State on or before the expiry date for objections;
- (b) is made in writing;
- (c) states the grounds of the objection or representation;
- (d) indicates who is making the objection or representation; and
- (e) provides an address to which any correspondence relating to that objection or representation may be sent.

(2) Where an objection or representation relates to information supplied by the applicant pursuant to rule 17 above after the application has been made, that objection or representation will be an objection or representation for the purposes of these Rules even where it is made after the expiry date for objections, if it is made not later than 42 days after the date on which the information is supplied to the Secretary of State or the last date on which a notice relating to the information is published in a newspaper pursuant to rule 17(4) above, whichever date is the later.

(3) In this rule and in rules 23 to 26 below, a reference to an objection or representation includes a reference to any document submitted with an objection or representation.

#### **Notice of objections and other representations**

**23.**—(1) The Secretary of State shall, as soon as reasonably practicable after he has received an objection or representation, provide the applicant with a copy of that objection or representation.

(2) As soon as reasonably practicable after the expiry date for objections the Secretary of State shall provide the applicant with a list of the objections and representations that the Secretary of State has received stating, in each case—

- (a) the name and address of the objector or maker of the representation; and
- (b) the reference number given to the objection or representation.

#### **Application of written representations procedure**

**24.**—(1) Subject to paragraphs (2) to (4) below, rule 25 below shall apply to an objection unless, on or before the operative date, the Secretary of State has—

- (a) given written notice in accordance with rules made under section 9 of the Tribunal and Inquiries Act 1992(45) that he will cause a public local inquiry to be held;
- (b) given written notice to the applicant and every objector who made the objection in question that the objection will be dealt with in accordance with section 11(2);
- (c) informed the objector in question and the applicant that it appears to him that the objection is of a type mentioned in paragraph (a) or (b) of section 10(3); or
- (d) published a notice in the London Gazette in accordance with section 9(2) identifying the application and the proposals in it which in his opinion are of national significance.

(2) Rule 25 below shall not apply in relation to an objection if, not later than the operative date, a statutory objector informs the Secretary of State in writing that he wishes the objection to be referred to a public local inquiry or dealt with in accordance with section 11(2).

(3) Rule 25 below shall cease to apply to an objection if after the operative date either the Secretary of State or a statutory objector, as the case may be, takes in relation to that objection one of the steps mentioned in paragraph (1) or (2) above.

(4) Notwithstanding that one of the steps mentioned in paragraph (1) or (2) above has been taken, the Secretary of State may, with the consent of the applicant and every statutory objector, and after consulting such other persons as he thinks fit, direct that rule 25 below shall thereafter apply to all objections that have not been withdrawn; provided that, where any of the steps required to be taken under that rule have been taken before the date of that direction, they need not be taken again.

(5) In this rule—

“statutory objector” means a person within section 11(4) who has made an objection which has not been withdrawn; and

“the operative date” means the date falling 28 days after the expiry date for objections.

#### **Procedure by written representations**

**25.**—(1) Where none of the steps mentioned in paragraphs (1) and (2) of rule 24 above has been taken by the operative date the provisions of this rule shall apply and the Secretary of State shall notify the applicant and all those who have made an objection or a representation pursuant to rule 22 above that this is the case.

(2) The applicant may, not later than 28 days after the date of the giving of such notification to him, submit to the Secretary of State representations upon each objection.

(3) The Secretary of State shall, not later than 7 days after the receipt of representations from an applicant pursuant to paragraph (2) above, serve a copy of those representations upon the relevant objector and shall advise him of his rights under paragraph (4) below.

(4) An objector may, not later than 21 days after the service upon him by the Secretary of State of a copy of the applicant's representations, reply in writing to the Secretary of State and, where such a reply is made, the Secretary of State shall, not later than 7 days after the receipt of such reply, serve a copy of it upon the applicant.

(5) The Secretary of State may, at any time before the making of a determination under section 13, by notice in writing require the applicant or any objector to submit, within such reasonable time as the notice may specify, such further information in relation to an application or objection as the notice may specify.

(6) Where any further information is submitted pursuant to paragraph (5) above the Secretary of State shall not make a determination until he has afforded to any person he considers is likely to be affected by such further information a reasonable opportunity of commenting upon it.

#### **Submission of written objections and representations to inquiry or hearing**

**26.** Where the Secretary of State causes a public local inquiry to be held or gives an objector an opportunity of being heard before a person appointed by the Secretary of State, the Secretary of State shall submit every objection and all representations made pursuant to rule 22 above either to the inquiry inspector or to the person so appointed, as the case may be, as soon as it is reasonably practicable to do so.

#### **Power to set later time limits**

**27.** The Secretary of State may in a particular case allow further time for the taking of any steps (including a step which he is required or enabled to take himself) which may or must be taken pursuant to these Rules and any reference to a date by which or a period within which any step is required to be taken shall be construed accordingly.

#### **Applications relating solely to Wales**

**28.—(1)** This rule applies where an application for an order to be made under section 1 or 3, or a proposal to make an order under section 7(1)(b) or (c), relates solely to any matter specified in paragraph (2) below<sup>(46)</sup>.

(2) The specified matters are—

- (a) the construction or operation of a transport system in Wales;
- (b) the construction or operation of an inland waterway in Wales;
- (c) the carrying out of works which interfere with rights of navigation within Wales or in the territorial sea adjacent to Wales; and
- (d) any works or other matters which would be carried out, or occur wholly, in Wales, or which would affect only Wales, and which are ancillary to any of the matters specified in subparagraphs (a) to (c) above.

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<sup>(46)</sup> Certain of the functions of the Secretary of State under sections 1 and 3 of the Transport and Works Act 1992 in relation to cases relating solely to Wales were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672; see the entry in Schedule 1 to that Order that relates to the Transport and Works Act 1992.

(3) Where this rule applies, these Rules shall have effect in relation to the application or proposal in question as modified by paragraphs (4) to (7) below.

(4) Subject to paragraph (5) below, references in these Rules to the Secretary of State, other than the reference in rule 3(1) above, shall be construed as references to the National Assembly for Wales.

(5) In rule 24 above, the reference to the Secretary of State, in so far as it relates to paragraph (1) (d) of that rule, shall be construed as a reference to the Secretary of State and the National Assembly for Wales but otherwise shall be construed as a reference only to the Assembly.

(6) The following provisions in column (2) in Schedule 2 to these Rules shall not apply—

- paragraph 1(a);
- paragraph 5(b);
- paragraph 7(b);
- paragraph 9(b);
- paragraph 13(b);
- paragraph 14(b);
- paragraph 15(b); and
- paragraph 19(b).

(7) The following provisions in column (2) in Schedule 5 to these Rules shall not apply—  
paragraph 1(a);

- paragraph 5(b);
- paragraph 8(b);
- paragraph 14(b);
- paragraph 15(b);
- paragraph 16(b); and
- paragraph 22(b).

(8) In Schedule 6 to these Rules, in column (2), paragraph 6(i)(b) shall not apply.

(9) In Schedule 8 to these Rules, paragraph 7(d) shall not apply.

Signed by authority of the Secretary of the State for the Environment, Transport and the Regions

10th August 2000

*Gus Macdonald*  
Minister of State,  
Department of the Environment, Transport and  
the Regions

SCHEDULE 1

Rules 4(1) and 11(2)

INFORMATION TO BE INCLUDED IN ENVIRONMENTAL STATEMENTS

1. A description of the project, including in particular—
  - (a) a description of the physical characteristics of all of the works covered by the application and the land-use requirements during the construction and operational phases;
  - (b) a description of the main characteristics of the production processes, for instance, nature and quantity of the materials used;
  - (c) an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation and any others) resulting from the operation of the proposed project.
2. An outline of the main alternatives studied by the applicant and an indication of the main reasons for his choice, taking into account the environmental effects.
3. A description of the aspects of the environment likely to be significantly affected by the proposed project, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.
4. A description of the likely significant effects of the proposed project on the environment, which should cover the direct effects and any indirect, secondary, cumulative, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the project, resulting from—
  - (a) the existence of the project,
  - (b) the use of natural resources, and
  - (c) the emission of pollutants, the creation of nuisances and the elimination of waste,
 and the description by the applicant of the forecasting methods used to assess the effects on the environment.
5. A description of the measures envisaged to prevent, reduce and where possible remedy any significant adverse effects on the environment.
6. A non-technical summary of the information provided under paragraphs 1 to 5 above.
7. An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the developer in compiling the required information.

SCHEDULE 2

Rule 5(1)

THOSE TO BE SERVED WITH NOTICE OF INTENDED APPLICATION

(1) <i>Authority sought for:—</i>	(2) <i>Those to be served:—</i>
1. Works affecting the foreshore below mean high water spring tides, tidal waters, or the bed of, or the subsoil beneath, tidal waters.	1. The Crown Estate Commissioners, the Minister of Agriculture, Fisheries and Food; and, <ol style="list-style-type: none"> <li>(a) in or adjacent to Wales, the National Assembly for Wales;</li> </ol>

(1) <i>Authority sought for:—</i>	(2) <i>Those to be served:—</i>
2. Works affecting the banks or the bed of, or the subsoil beneath, a river.	(b) in or adjacent to the counties of Devon and Cornwall and the Isles of Scilly, the Duchy of Cornwall; and (c) in or adjacent to the counties of Cumbria, Lancashire, Merseyside and Cheshire, the Duchy of Lancaster. 2. The Crown Estate Commissioners and any relevant operator; and for works— (a) in or adjacent to the counties of Devon and Cornwall and the Isles of Scilly, the Duchy of Cornwall; (b) in or adjacent to the counties of Cumbria, Lancashire, Merseyside and Cheshire, the Duchy of Lancaster.
3. Works affecting the banks or the bed of, or the subsoil beneath, an inland waterway comprised in the undertaking of the British Waterways Board or any of the reservoirs, feeders, sluices, locks, lifts, drains and other works comprised in or serving the undertaking.	3. The British Waterways Board (unless the Board is the applicant) and the Inland Waterways Amenity Advisory Council.
4. Works affecting the banks or the bed of, or the subsoil beneath, a canal or inland navigation not comprised in the undertaking of the British Waterways Board or any of the reservoirs, feeders, sluices, locks, lifts, drains and other works comprised in or serving such canal or inland navigation.	4. Any relevant operator.
5. Works causing, or likely to cause, an obstruction to the passage of fish in a river.	5. For works— (a) in England, the Minister of Agriculture, Fisheries and Food; and (b) in Wales, the National Assembly for Wales.
6. Works affecting an area under the control of a harbour authority as defined in section 57(1) of the Harbours Act 1964. <b>(47)</b>	6. The relevant harbour authority and the relevant navigation authority (if different).
7. Works affecting a site protected under the Protection of Wrecks Act 1973. <b>(48)</b>	7. For works— (a) in or adjacent to England, the Secretary of State for Culture, Media and Sport; and (b) in or adjacent to Wales, the National Assembly for Wales.

(47) 1964 c. 40.

(48) 1973 c. 33.

(1) <i>Authority sought for:—</i>	(2) <i>Those to be served:—</i>
<p><b>8.</b> Works affecting, or involving the stopping-up or diversion of, a street, or affecting a proposed highway.</p> <p><b>9.</b> Works likely to affect the volume or character of traffic entering or leaving—</p> <p style="padding-left: 40px;">(i) a special road or trunk road; or</p> <p style="padding-left: 40px;">(ii) any other classified road.</p> <p><b>10.</b> The construction of a transport system involving the placing of equipment in or over a street.</p> <p><b>11.</b> Works affecting land in, on or over which is installed the apparatus, equipment or street furniture of a statutory undertaker.</p> <p><b>12.</b> Works in an area of coal working notified to the local planning authority by the British Coal Corporation or the Coal Authority.</p> <p><b>13.</b> Works affecting:</p> <p style="padding-left: 40px;">(i) a building listed under Part I of the Planning (Listed Buildings and Conservation Areas) Act 1990<sup>(49)</sup>;</p> <p style="padding-left: 40px;">(ii) an ancient monument scheduled under the Ancient Monuments and Archaeological Areas Act 1979<sup>(50)</sup>.</p> <p><b>14.</b> Works affecting:</p> <p style="padding-left: 40px;">(i) a conservation area designated under Part II of the Planning (Listed Buildings and Conservation Areas) Act 1990; or</p> <p style="padding-left: 40px;">(ii) an area of archaeological importance designated under section 33 of the</p>	<p><b>8.</b> The relevant highway authority or, where the street is not a highway maintainable at the public expense, the street managers.</p> <p style="padding-left: 40px;">(i) For works—</p> <p style="padding-left: 80px;">(a) in England, the Secretary of State (marked “;for the attention of the Highways Agency”); and</p> <p style="padding-left: 80px;">(b) in Wales, the National Assembly for Wales.</p> <p style="padding-left: 40px;">(ii) The relevant highway authority.</p> <p><b>10.</b> The street authority and where the works are to be carried out in Greater London, Transport for London.</p> <p><b>11.</b> The relevant statutory undertaker.</p> <p><b>12.</b> The Coal Authority.</p> <p><b>13.</b> (i) and (ii). For works—</p> <p style="padding-left: 40px;">(a) in or adjacent to England, the Historic Buildings and Monuments Commission for England and the Royal Commission on the Historical Monuments of England; and</p> <p style="padding-left: 40px;">(b) in or adjacent to Wales, the National Assembly for Wales and the Royal Commission on Ancient and Historical Monuments in Wales.</p> <p><b>14.</b> (i) and (ii). For works—</p> <p style="padding-left: 40px;">(a) in England, the Historic Buildings and Monuments Commission for England; and</p> <p style="padding-left: 40px;">(b) in Wales, the National Assembly for Wales.</p>

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<sup>(49)</sup> 1990 c. 9.

<sup>(50)</sup> 1979 c. 46.

(1) <i>Authority sought for:—</i>	(2) <i>Those to be served:—</i>
Ancient Monuments and Archaeological Areas Act 1979.	
<b>15.</b> Works affecting a garden or other land of historic interest registered pursuant to section 8C of the Historic Buildings and Monuments Act 1953. <b>(51)</b>	<b>15.</b> For works— (a) in England, the Historic Buildings and Monuments Commission for England; and (b) in Wales, the National Assembly for Wales.
<b>16.</b> Works which are either: (i) within 3 kilometres of Windsor Castle, Windsor Great Park or Windsor Home Park;	<b>16.</b> The Secretary of State for Culture, Media and Sport.
or	
(ii) within 800 metres of any other royal palace or royal park and which are likely to affect the amenity or security of that palace or park.	
<b>17.</b> Works affecting any land on which there is a theatre as defined in the Theatres Trust Act 1976. <b>(52)</b>	<b>17.</b> The Theatres Trust.
<b>18.</b> The carrying-out of an operation requiring hazardous substances consent under the Planning (Hazardous Substances) Act 1990. <b>(53)</b>	<b>18.</b> The hazardous substances authority as defined in that Act, the Health and Safety Executive and the Fire and Civil Defence Authority for the area in which the operation is to be carried out.
<b>19.</b> Works not in accordance with a development plan and which either: (i) involve the loss of not less than 20 hectares of agricultural land of grades 1, 2 and 3a (in aggregate); or (ii) taken with other associated works cumulatively involve the loss of not less than 20 hectares of such land.	<b>19.</b> (i) and (ii). For works— (a) in England, the Minister of Agriculture, Fisheries and Food; and (b) in Wales, the National Assembly for Wales.
<b>20.</b> Works to construct, alter or demolish a transport system or to carry out works ancillary	<b>20.</b> Her Majesty's Railway Inspectorate.

**(51)** 1953. c. 49. Section 8C was inserted by the National Heritage Act 1983 (c. 47), section 33 and Schedule 4, paragraph 10.

**(52)** 1976 c. 27.

**(53)** 1990 c. 10.

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(1) <i>Authority sought for:—</i>	(2) <i>Those to be served:—</i>
to its operation or works consequential upon its abandonment or demolition.	
<b>21.</b> Works which would affect the operation of any existing railway passenger or tramway services provided under statutory powers.	<b>21.</b> Every relevant consultative committee (as defined in section 83 of the Railways Act 1993) or the London Transport Users' Committee as the case may require. <b>(54)</b>
<b>22.</b> Works to construct new railways to which any regulatory provisions in the Railways Act 1993 would apply or to amend existing powers in relation to railways subject to such regulation.	<b>22.</b> The Director of Passenger Rail Franchising, and the Rail Regulator.
<b>23.</b> Works affecting land, or the use of land, in which there is a Crown interest.	<b>23.</b> The appropriate authority for the land, within the meaning of section 25(3).
<b>24.</b> Works to be carried out in Greater London.	<b>24.</b> The Mayor of London.

SCHEDULE 3

Rules 5, 14, 15 and 17

FORMS OF NOTICE

**FORM 1**The Transport and Works Act 1992The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000[Order title]**PROPOSAL TO APPLY FOR AN ORDER**

(54) 1993 c. 43.

Rule 5(1) and (2)

To: [Name and address of recipient]

[Name of applicant] gives notice under rule \*[5(2) of] [5(1) of and Schedule 2 to] the above Rules, of [its/his] intention to apply to the Secretary of State [title], not earlier than 28 days from the date of this notice, for an order under section \*[1][3] of the Transport and Works Act 1992. \*[This notice is served because authority is sought in the order for/to (a) ].

A brief description of the proposals in the draft order is \*[given below][appended]. \*[A plan showing the location of the proposed works is appended.]

Any queries concerning this notice or requests for further information should be addressed to: [name, address and telephone number].

Signed: \_\_\_\_\_

\*On behalf of: \_\_\_\_\_

Date: \_\_\_\_\_

Name and status of signatory: \_\_\_\_\_

\*Delete where inappropriate  
\_\_\_\_\_

**Note**

(a) Insert wording from relevant paragraph number in column (1) of Schedule 2.

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**FORM 2The Transport and Works Act 1992The Transport and Works Act (Applications and Objections Procedure) (England and Wales) Rules 2000[Order title]NOTICE OF APPLICATION FOR AN ORDER**

*Status: This is the original version (as it was originally made). UK  
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Rule 14(2)

[Name and address of applicant] \**is to apply* [*has applied*] to the Secretary of State [title] under section 6 of the Transport and Works Act 1992 for the above-mentioned order under section \**[1][3]* of that Act.

The draft order makes provision for ..... (a)

\*[The application is to be made subject to an environmental impact assessment.] or \*[The Secretary of State has determined that the application [is] [is not] to be made subject to an environmental impact assessment.]

\*[The application will contain/contains a statement that [a direction for deemed planning permission] [and] [a hazardous substances consent] is/are being applied for.]

A copy of the application, and of all plans and other documents submitted with it, may be inspected free of charge between the hours of (b) and (b) on (b) to (b) at (c) until (d).

Any objections to, or other representations about, the proposals in the application should be sent to the Secretary of State [title] c/o [Departmental address] on or before [expiry date for objections]. An objection or representation MUST (i) be received by the Secretary of State on or before [expiry date for objections], (ii) be made in writing, (iii) state the grounds of the objection or representation and (iv) indicate who is making the objection or representation, and (v) give an address to which correspondence relating to the objection or representation may be sent.

The Secretary of State may make objections and other representations public and will copy them to the applicant for the order.

Signed: \_\_\_\_\_

\*On behalf of: \_\_\_\_\_

Date: \_\_\_\_\_

Name and status of signatory: \_\_\_\_\_

\*Delete or amend as appropriate

**Notes**

- (a) Summarise the provisions in the draft order which are relevant to the area in which the newspaper circulates. For orders authorising works, a brief description and location of the works relevant to the area should be included.
- (b) Times of inspection (hours of the day and days of the week) must give the general public a reasonable opportunity to inspect, and the addresses for inspection should include at least one address in each area where inspection is possible on Saturday or Sunday.
- (c) Place where the application etc. may be inspected.
- (d) Date not earlier than the expiry date for objections.

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**The Transport and Works Act 1992 The Transport and Works (Applications and Objections Procedure) Rules 2000 (England and Wales) [Order title] NOTICE OF PROPOSED WORKS**

Rule 14(7)

[Name and address of applicant] has applied to the Secretary of State [title] under section 6 of the Transport and Works Act 1992 for an order authorising the following works [description of works and their location]. (a)

A copy of the application, and of all plans and other documents submitted with it, may be inspected free of charge between the hours of (b) and (b) on (b) to (b) at (c) until (d).

Any objections to, or other representations about, the proposals in the application should be sent to the Secretary of State [title] c/o [Departmental address] on or before [expiry date for objections]. An objection or representation MUST (i) be received by the Secretary of State on or before [expiry date for objections], (ii) be made in writing, (iii) state the grounds of the objection or representation and (iv) indicate who is making the objection or representation, and (v) give an address to which correspondence relating to the objection or representation may be sent.

The Secretary of State may make objections and representations public and will copy them to the applicant for the order.

Signed: \_\_\_\_\_

\*On behalf of: \_\_\_\_\_

Date: \_\_\_\_\_

Name and status of signatory: \_\_\_\_\_

\*Delete where inappropriate

**Notes**

- (a) Description and location may vary for linear works to suit siting of each notice but must be clear. A plan may be helpful.
- (b) Times of inspection (hours of the day and days of the week) must give the general public a reasonable opportunity to inspect, and the addresses for inspection should include at least one address in each area where inspection is possible on Saturday or Sunday.
- (c) Place where the application etc. may be inspected.
- (d) Date not earlier than the expiry date for objections.

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**FORM 4The Transport and Works Act 1992The Transport and Works (Applications and Objections Procedure) Rules 2000 (England and Wales)NOTICE OF APPLICATION FOR AN ORDER WHICH WOULD \*[EXTINGUISH PUBLIC RIGHTS OF WAY OVER] [STOP UP] [DIVERT] [TEMPORARILY] [RESTRICT USE OF] A [STREET] [FOOTPATH/ETC.]**

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Rule 14(8)

[Name and address of applicant] has applied to the Secretary of State [title], under section 6 of the Transport and Works Act 1992 for the [name of draft order] to [brief description of works]. The order would authorise the \*[extinguishment of rights of way on foot/with vehicles/etc. (a) over] [stopping-up] [diversion] [restriction of use] [of] the \*[street] [highway/footpath/bridleway] [No. ] [known as (b)] between (c) and (c) \*[to a line route extending between (d) and (d)].

\*[The period of the [stopping-up] [diversion] [restriction of use] applied for is [months/years.]

A copy of the application, and of all plans and other documents submitted with it, may be inspected free of charge between the hours of (e) and (e) on (e) to (e) at (f) until (g).

Any objections to, or other representations about, the proposals in the application should be sent to the Secretary of State [title] c/o [Departmental address] on or before [expiry date for objections]. An objection or representation MUST (i) be received by [expiry date for objections], (ii) be made in writing, (iii) state the grounds of the objection or representation, (iv) indicate who is making the objection or representation, and (v) give an address to which correspondence relating to the objection or representation may be sent.

The Secretary of State may make objections and representations public and will copy them to the applicant for the order.

Signed: \_\_\_\_\_

\*On behalf of: \_\_\_\_\_

Date: \_\_\_\_\_

Name and status of signatory: \_\_\_\_\_

\*Delete or amend as appropriate

**Notes**

- (a) Provide sufficient detail to identify right of way (e.g. number of footpath or bridleway on definitive map or name of street) and indicate extent of proposed extinguishment if limited to type of use (e.g. on foot).
- (b) Provide sufficient detail to identify the right of way or street.
- (c) Points between which the street is to be stopped up, diverted or restricted.
- (d) Give line of route of diverted street.
- (e) Times of inspection (hours of the day and days of the week) must give the general public a reasonable opportunity to inspect, and the addresses for inspection should include at least one address in each area where inspection is possible on Saturday or Sunday.
- (f) Place where the application etc. may be inspected.
- (g) Date not earlier than the expiry date for objections.

**FORM 5The Transport and Works Act 1992The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000[Order title]NOTICE OF APPLICATION FOR AN ORDER WHICH WOULD RESULT IN THE CLOSURE OF A \*[STATION] [TRAMWAY] [RAILWAY LINE] TO PASSENGER SERVICES**

Rule 14(9)

[Name and address of applicant] has applied to the Secretary of State [title], under section 6 of the Transport and Works Act 1992, for an order under section 1 of that Act which, if made, would result in the closure of the \*[station] [tram stops] [and] [railway line] [tramway] specified in Schedule 1 below \*[to passenger traffic].

This authority is sought in connection with (a).

\*[The proposed closure would also be subject to closure procedures under the Railways Act 1993.]

A copy of the application, and of all plans and other documents submitted with it, may be inspected free of charge between the hours of (b) and (b) on (b) to (b) at (c) until (d).

Any objections to, or other representations about, the proposals should be sent to the Secretary of State [title] c/o [Departmental address] on or before [expiry date for objections], and a copy of the objection or representation should be sent to the Secretary of the [name of Rail Users' Consultative Committee or London Transport Users' Committee] at [address of the Committee]. An objection or representation MUST (i) be received by the Secretary of State on or before [expiry date for objections], (ii) be made in writing, (iii) state the grounds of the objection or representation and (iv) indicate who is making the objection or representation, and (v) give an address to which correspondence relating to the objection or representation may be sent.

The Secretary of State may make objections and representations public and will copy them to the applicant for the order.

It appears to the applicant named above that the alternative services described in Schedule 2 below will be available.

Signed: \_\_\_\_\_

\*On behalf of: \_\_\_\_\_

Date: \_\_\_\_\_

Name and status of signatory: \_\_\_\_\_

SCHEDULE 1 (e)

SCHEDULE 2 (f)

\*Delete where inappropriate

**Notes**

- (a) Insert short details of project giving rise to closure.
- (b) Times of inspection (hours of the day and days of the week) must give the general public a reasonable opportunity to inspect, and the addresses for inspection should include at least one address in each area where inspection is possible on Saturday or Sunday.
- (c) Place where the application etc. may be inspected.
- (d) Date not earlier than the expiry date for objections.
- (e) Insert name(s) of station(s) and/or line(s) involved. Please attach a map if practicable.
- (f) Set out particulars of alternative services by train, bus, tramcar or other mode of transport, both existing and/or to be provided.

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**LAND] [FOR POWERS TO CARRY OUT PROTECTIVE WORKS TO BUILDINGS] [TO  
EXTINGUISH RIGHTS OVER LAND]**

Rule 15

To: [Name and address of recipient]

[Name and address of applicant] has applied to the Secretary of State [title] under section 6 of the Transport and Works Act 1992, for an order authorising the following works [brief description of works and their location].

The draft order provides for the \*[compulsory purchase of the] [extinguishment of the] \*[lands] [rights in land] [rights to use land] [rights to carry out protective works to buildings], described in the Schedule below, in which it is believed you have an interest.

A copy of the application, and of all plans and other documents submitted with it, may be inspected free of charge between the hours of (a) and (a) on (a) to (a) at (b) until (c).

Any objections to, or other representations about, the proposals in the application should be sent to the Secretary of State [title] c/o [Departmental address] on or before [expiry date for objections]. An objection or representation MUST (i) be received by the Secretary of State on or before [expiry date for objections], (ii) be made in writing, (iii) state the grounds of the objection or representation and (iv) indicate who is making the objection or representation, and (v) give an address to which correspondence relating to the objection or representation may be sent.

The Secretary of State may make objections or representations public and will copy them to the applicant for the order.

Where an objection is made (and not withdrawn) by a person who is an owner or occupier (except a tenant for a month or less) and that person so requests in writing, the Secretary of State must hold a public local inquiry or a hearing to give that person an opportunity to be heard. However, this rule will not apply where the objection appears to the Secretary of State to be frivolous or trivial, or to relate to matters which fall to be determined by a tribunal concerned with the assessment of compensation.

Signed: \_\_\_\_\_

\*On behalf of: \_\_\_\_\_

Date: \_\_\_\_\_

Name and status of signatory: \_\_\_\_\_

**SCHEDULE**

Description of lands and/or buildings affected by the proposed compulsory powers

[Description should be such as to show in clear terms which land or building is affected and how. Where land is to be acquired, a plan drawn to a suitable scale should be attached if this will help the recipient of the notice to understand precisely what land would be acquired.]

\*Delete where inappropriate

**Notes**

- (a) Times of inspection (hours of the day and days of the week) must give the general public a reasonable opportunity to inspect, and the addresses for inspection should include at least one address in each area where inspection is possible on Saturday or Sunday.
- (b) Place where the application etc. may be inspected.
- (c) Date not earlier than the expiry date for objections.

Rule 17(4)

On [date] [name and address of applicant] applied to the Secretary of State [title] under section 6 of the Transport and Works Act 1992 for the above-mentioned order under section \*[1] [3] of that Act.

The draft order makes provision for (a).

Further information is available in relation to the environmental statement which was provided with the application. A copy of that information may be inspected free of charge between the hours of (b) and (b) on (b) to (b) at (c) until (d). Copies of the information may be obtained from (e) for [£ ] [free of charge].

Representations about the further information should be sent to the Secretary of State [title] c/o [Departmental address]. Any such representations MUST (i) be received by the Secretary of State on or before (d), (ii) be made in writing, (iii) state the grounds for the representation, and (iv) indicate who is making the representation, and (v) give an address to which correspondence relating to the representation should be sent.

The Secretary of State may make representations public and will copy them to the applicant for the order.

Signed: \_\_\_\_\_

\*On behalf of: \_\_\_\_\_

Date: \_\_\_\_\_

Name and status of signatory: \_\_\_\_\_

\*Delete or amend as appropriate

#### Notes

- (a) Summarise the provisions in the draft order which are relevant to the area in which the newspaper circulates. A brief description of the works relevant to the area should be included and their location indicated.
- (b) Times of inspection (hours of the day and days of the week) must give the general public a reasonable opportunity to inspect, and the addresses for inspection should include at least one address in each area where inspection is possible on Saturday or Sunday.
- (c) Address in the locality where the further information may be inspected.
- (d) Date 42 days from the date of service of the further information on the Secretary of State or 42 days after a notice is published pursuant to rule 17(4), whichever date is the later (see rule 22(2)).
- (e) Address where copies of the further information may be obtained.

## SCHEDULE 4

Rule 10(3)

### FORM OF ESTIMATE OF COSTS

Purpose	Amount £
A. General	
1. Surveying, drilling and soil sampling.	
2. Acquisition of land and rights over land.	
3. Earthworks (including land reclamation and landscaping).	

<b>Purpose</b>	<b>Amount £</b>
<p>4. Fees of professional and other advisers, in connection with the implementation of the project once authorised.</p>	
<p>B. Transport systems</p>	
<p>1. Tunnels and bridges.</p>	
<p>2. Highway works, including alterations to and relocation of existing services and statutory undertakers' apparatus.</p>	
<p>3. Permanent way or other supporting/ guiding structures.</p>	
<p>4. Workshops, depots, stations and other buildings.</p>	
<p>5. Electrical plant and equipment.</p>	
<p>6. Signalling and communications.</p>	
<p>7. Vehicles.</p>	
<p>8. Alteration, modification and removal of existing works.</p>	
<p>9. Other major items (to be specified).</p>	
<p>C. Inland waterways</p>	
<p>1. Tunnels, bridges and aqueducts.</p>	
<p>2. Canals, pounds and locks.</p>	
<p>3. Reservoirs, sluices, spillways and culverts.</p>	
<p>4. Wharves and other moorings.</p>	
<p>5. Diversion, alteration, modification and abandonment of existing waterways.</p>	
<p>6. Other major items (to be specified).</p>	
<p>D. Works which interfere with rights of navigation</p>	
<p>1. The principal components of each description of works prescribed by an order made under section 4.</p>	
<p>2. Plant, equipment and ancillary works required in connection with such works.</p>	
<p>3. Other major items (to be specified).</p>	

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SCHEDULE 5

Rule 13(3)

THOSE TO BE SERVED WITH A COPY OF APPLICATION AND DOCUMENTS

(1) <i>Authority sought for:—</i>	(2) <i>Documents to be deposited with:—</i>
1. Works affecting the foreshore below mean high water spring tides, or tidal waters, or the bed of, or the subsoil beneath, tidal waters.	1. The Crown Estate Commissioners; the Trinity House; the Environment Agency and the Minister of Agriculture, Fisheries and Food; and, for works— (a) in or adjacent to Wales, the National Assembly for Wales; (b) in or adjacent to the counties of Devon and Cornwall and the Isles of Scilly, the Duchy of Cornwall; and (c) in or adjacent to the counties of Cumbria, Lancashire, Merseyside and Cheshire, the Duchy of Lancaster.
2. Works affecting the banks or the bed of, or the subsoil beneath, a river.	2. The Environment Agency and any relevant operator.
3. Works affecting the banks or the bed of, or the subsoil beneath, an inland waterway comprised in the undertaking of the British Waterways Board or any of the reservoirs, feeders, sluices, locks, lifts, drains and other works comprised in or serving the undertaking.	3. The British Waterways Board, the Inland Waterways Amenity Advisory Council, the Inland Waterways Association, the National Association of Boat Owners and the Environment Agency.
4. Works affecting the banks or the bed of, or the subsoil beneath, a canal or inland navigation not comprised in the undertaking of the British Waterways Board or any of the reservoirs, feeders, sluices, locks, lifts, drains and other works comprised in or serving such canal or inland navigation.	4. Any relevant operator, the Environment Agency, the Inland Waterways Association and the National Association of Boat Owners.
5. Works causing or likely to cause an obstruction to the passage of fish in a river.	5. The Environment Agency and, for works— (a) in England, the Minister of Agriculture, Fisheries and Food; and (b) in Wales, the National Assembly for Wales.
6. Works involving tunnelling or excavation deeper than 3 metres below the surface of the land, other than for piling or making soil tests.	6. The Environment Agency.
7. Works affecting an area under the control of a harbour authority as defined in section 57(1) of the Harbours Act 1964(55).	7. The relevant harbour authority and the relevant navigation authority (if different).

(55) 1964 c. 40.

(1) <i>Authority sought for:—</i>	(2) <i>Documents to be deposited with:—</i>
<p><b>8.</b> Works affecting a site protected under the Protection of Wrecks Acts 1973<b>(56)</b>.</p>	<p><b>8.</b> For works—</p> <ul style="list-style-type: none"> <li>(a) in or adjacent to England, the Secretary of State for Culture, Media and Sport; and</li> <li>(b) in or adjacent to Wales, the National Assembly for Wales.</li> </ul>
<p><b>9.</b> Works affecting, or involving the stopping-up or diversion of, a street, or affecting a proposed highway.</p>	<p><b>9.</b> The relevant highway authority or, where the street is not a highway maintainable at the public expense, the street managers.</p>
<p><b>10.</b> The stopping-up or diversion of a footpath, a bridleway, a byway or a cycle track.</p>	<p><b>10.</b> Every parish or community council in whose area the relevant way or track is, or is proposed to be, situated, the Auto-Cycle Union, the British Horse Society, the Byways and Bridleways Trust, the Open Spaces Society, the Ramblers' Association, the British Driving Society and the Cyclists Touring Club; and, for works—</p> <ul style="list-style-type: none"> <li>(a) in the counties of Cheshire, Derbyshire, Greater Manchester, Lancashire, Merseyside, South Yorkshire, Staffordshire and West Yorkshire, the Peak and Northern Footpaths Society; and</li> <li>(b) in the county of Bedfordshire, the borough of Luton and within the district of Mid Bedfordshire the parishes of Harlington and Shillington, and within the district of South Bedfordshire the parishes of Barton le Clay, Caddington and Slip End, Dunstable, Eaton Bray, Houghton Regis, Hyde, Kensworth, Streatley, Studham, Sundon, Toddington, Totternhoe and Whipsnade, the Chiltern Society; and</li> <li>(c) in the county of Buckinghamshire, in the districts of Chiltern, Wycombe and South Bucks, and within the district of Aylesbury Vale the parishes of Aston Clinton, Buckland, Drayton Beauchamp, Edlesborough Northall and Dagnall, Halton, Ivinghoe, Marsworth, Pitstone, Wendover and Weston Turville, the Chiltern Society; and</li> </ul>

(1) <i>Authority sought for:—</i>	(2) <i>Documents to be deposited with:—</i>
<b>11.</b> The construction of a transport system involving the placing of equipment in or over a street.	(d) in the county of Hertfordshire, in the districts of Dacorum and Three Rivers, and within the district of North Hertfordshire the parishes of Hexton, Hitchin, Ickleford, Ippolitts, Kings Walden, Langley, Lilley, Offley, Pirton, Preston and St. Paul's Walden, the Chiltern Society; and (e) in the county of Oxfordshire, the district of South Oxfordshire, The Chiltern Society; and (f) in Wales, the Welsh Trail Riders' Association.
<b>12.</b> Works affecting land in, on or over which is installed the apparatus, equipment or street furniture of a statutory undertaker.	<b>11.</b> The relevant street authority and, where the works are to be carried out in Greater London, Transport for London.
<b>13.</b> Works in an area of coal working notified to the local planning authority by the British Coal Corporation or the Coal Authority.	<b>12.</b> The relevant statutory undertaker.
<b>14.</b> Works affecting: (i) a building listed under Part I of the Planning (Listed Buildings and Conservation Areas) Act 1990 <sup>(57)</sup> ; (ii) an ancient monument scheduled under the Ancient Monuments and Archaeological Areas Act 1979 <sup>(58)</sup> ; or (iii) any archaeological site.	<b>13.</b> The Coal Authority. <b>14.</b> (i), (ii) and (iii). For works— (a) in or adjacent to England, the Historic Buildings and Monuments Commission for England and the Royal Commission on the Historical Monuments of England; and (b) in or adjacent to Wales, the National Assembly for Wales and the Royal Commission on Ancient and Historical Monuments in Wales.
<b>15.</b> Works affecting: (i) a conservation area designated under Part II of the Planning (Listed Buildings and Conservation Areas) Act 1990; or (ii) an area of archaeological importance designated under section 33 of the Ancient Monuments and	<b>15.</b> (i) and (ii). For works— (a) in England, the Historic Buildings and Monuments Commission for England; and (b) in Wales, the National Assembly for Wales.

<sup>(57)</sup> 1990 c. 9.

<sup>(58)</sup> 1979 c. 46.

(1) <i>Authority sought for:—</i>	(2) <i>Documents to be deposited with:—</i>
Archaeological Areas Act 1979.	
<b>16.</b> Works affecting a garden or other land of historic interest registered pursuant to section 8C of the Historic Buildings and Ancient Monuments Act 1953 <b>(59)</b> .	<b>16.</b> For works— (a) in England, the Historic Buildings and Monuments Commission for England; and (b) in Wales, the National Assembly for Wales.
<b>17.</b> Works affecting: (i) an area of special scientific interest of which notification has been given or has effect as if given under section 28(1) of the Wildlife and Countryside Act 1981 <b>(60)</b> ; (ii) an area within 2 kilometres of such an area of special scientific interest and of which notification has been given to the local planning authority; (iii) land declared to be a national nature reserve under section 35 of the Wildlife and Countryside Act 1981; or (iv) a marine nature reserve designated under section 36 of the Wildlife and Countryside Act 1981.	<b>17.</b> (i), (ii), (iii) and (iv). For works— (a) in or adjacent to England, the Nature Conservancy Council for England; and (b) in or adjacent to Wales, the Countryside Council for Wales.
<b>18.</b> Works affecting a National Park or an Area of Outstanding Natural Beauty.	<b>18.</b> For works— (a) in England, the Countryside Agency; and (b) in Wales, the Countryside Council for Wales.
<b>19.</b> Works which are either: (i) within 3 kilometres of Windsor Castle, Windsor Great Park or Windsor Home Park; or (ii) within 800 metres of any other royal palace or royal park and which are likely to affect the	<b>19.</b> The Secretary of State for Culture, Media and Sport.

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**(59)** 1953 c. 49.

**(60)** 1981 c. 69.

(1) <i>Authority sought for:—</i>	(2) <i>Documents to be deposited with:—</i>
amenity or security of that palace or park.	
<b>20.</b> Works which are within 250 metres of land which:	<b>20.</b> The Environment Agency.
(i) is, or has been within 30 years immediately prior to the date of the notice given under rule 5(1), used for the deposit of refuse or waste; or  (ii) has been notified to the local planning authority by the waste regulation or disposal authority for the relevant area.	
<b>21.</b> The carrying-out of an operation requiring hazardous substances consent under the Planning (Hazardous Substances) Act 1990 <b>(61)</b> .	<b>21.</b> The hazardous substances authority as defined in that Act and the Health and Safety Executive.
<b>22.</b> Works not in accordance with a development plan and which either:—	<b>22.</b> (i) and (ii). For works—
(i) involve the loss of not less than 20 hectares of agricultural land of grades 1, 2 and 3a (in aggregate); or  (ii) taken with other associated works cumulatively involve the loss of not less than 20 hectares of such land.	(a) in England, the Minister of Agriculture, Fisheries and Food; and  (b) in Wales, the National Assembly for Wales.
(i) Works which would affect the operation of any existing railway passenger or tramway services provided under statutory powers; or  (ii) the construction of a new railway for the provision of public passenger transport, or of a new tramway.	<b>23.</b> Every relevant consultative committee (as defined in section 83 of the Railways Act 1993 <b>(62)</b> ) or the London Transport Users' Committee as the case may require.
<b>24.</b> Works to construct new railways to which any regulatory provisions in the Railways Act 1993 would apply or provision to amend existing powers in relation to railways subject to such regulation.	<b>24.</b> The Director of Passenger Rail Franchising, and the Rail Regulator.

**(61)** 1990 c. 10.

**(62)** 1993 c. 43.

*Status: This is the original version (as it was originally made). UK  
Statutory Instruments are not carried in their revised form on this site.*

(1) <i>Authority sought for:—</i>	(2) <i>Documents to be deposited with:—</i>
<b>25.</b> The right for a person providing transport services to use a transport system belonging to another.	<b>25.</b> The operator of the relevant transport system.
<b>26.</b> Works affecting land in which there is a Crown interest.	<b>26.</b> The appropriate authority for the land, within the meaning of section 25(3).
<b>27.</b> Works to be carried out in Greater London.	<b>27.</b> The Mayor of London.

## SCHEDULE 6

Rule 14(4)

## THOSE TO BE SERVED WITH NOTICE OF APPLICATION

(1) <i>Authority sought for:—</i>	(2) <i>Those to be served:—</i>
<b>1.</b> Works affecting the foreshore below mean high water spring tides, tidal waters or the bed of, or subsoil beneath, tidal waters (except where the land affected by the works falls within category 17 of Schedule 5 to these Rules).	<b>1.</b> For works— <ul style="list-style-type: none"> <li>(a) in or adjacent to England, the Nature Conservancy Council for England; and</li> <li>(b) in or adjacent to Wales, the Countryside Council for Wales.</li> </ul>
<b>2.</b> Works affecting the banks or the bed of, or the subsoil beneath, a river.	<b>2.</b> The Crown Estate Commissioners; and (except where the land affected falls within category 17 of Schedule 5 to these Rules) for works— <ul style="list-style-type: none"> <li>(a) in England, the Nature Conservancy Council for England; and</li> <li>(b) in Wales, the Countryside Council for Wales.</li> </ul>
<b>3.</b> Works affecting the banks or the bed of, or the subsoil beneath, an inland waterway, canal or inland navigation, or any of the reservoirs, feeders, sluices, locks, lifts, drains and other works comprised in or serving that inland waterway, canal or inland navigation.	<b>3.</b> Any organisation (other than the Inland Waterways Association and the National Association of Boat Owners) upon which the Secretary of State has required the applicant to serve notice, as appearing to the Secretary of State to represent a substantial number of persons using the inland waterway, canal or inland navigation in question; and (except where the land affected falls within category 17 of Schedule 5 to these Rules) for works— <ul style="list-style-type: none"> <li>(a) in England, the Nature Conservancy Council for England; and</li> <li>(b) in Wales, the Countryside Council for Wales.</li> </ul>

(1) <i>Authority sought for:—</i>	(2) <i>Those to be served:—</i>
<b>4.</b> Works affecting an area under the control of a harbour authority as defined in section 57(1) of the Harbours Act 1964 <b>(63)</b> .	<b>4.</b> The navigation authority for any adjoining waterway (if different from the navigation authority for the harbour area) and the conservancy authority for any adjoining waterway.
<b>5.</b> Works which would, or would apart from the making of an order, require a consent to the discharge of matter into waters or onto land under Chapter II of Part III of the Water Resources Act 1991 <b>(64)</b> .	<b>5.</b> The Environment Agency.
<b>6.</b> Works likely to affect the volume or character of traffic entering or leaving:— (i) a special road or trunk road; (ii) any other classified road.	(i) For works— (a) in England, the Secretary of State (marked “for the attention of the Highways Agency”); and (b) in Wales, the National Assembly for Wales. (ii) The relevant highway authority.
<b>7.</b> The construction of a transport system involving the placing of equipment in or over a street (except a level crossing).	<b>7.</b> Owners and occupiers of all buildings which have a frontage on, or a private means of access which, first meets the highway at the part of the street in or over which equipment is to be placed.
<b>8.</b> Works affecting any land on which there is a theatre as defined in the Theatres Trust Act 1976 <b>(65)</b> .	<b>8.</b> The Theatres Trust.
<b>9.</b> The right to attach to a building any equipment required in connection with a tramway, trolley vehicle system or other guided transport system.	<b>9.</b> Every owner and occupier of the building.
<b>10.</b> The suspension or discontinuance of any operations in consequence of the abandonment or neglect of a transport system or inland waterway pursuant to section 7.	<b>10.</b> Every operator affected or likely to be affected thereby.
<b>11.</b> To modify, exclude, amend, repeal or revoke a provision of an Act of Parliament or statutory instrument conferring protection or benefit upon any person (whether in his capacity	<b>11.</b> The person upon whom such protection or benefit is conferred, or the person currently entitled to that protection or benefit.

**(63)** 1964 c. 40.

**(64)** 1991 c. 57.

**(65)** 1976 c. 27.

(1) <i>Authority sought for:—</i>	(2) <i>Those to be served:—</i>
as the owner of designated land or otherwise specifically named therein.	
<b>12.</b> The compulsory purchase of ecclesiastical property (as defined in section 12(3) of the Acquisition of Land Act 1981) <b>(66)</b> .	<b>12.</b> The Church Commissioners.
<b>13.</b> Works in Greater London or a metropolitan county.	<b>13.</b> The relevant Fire and Civil Defence Authority within the meaning of Part IV of the Local Government Act 1985 <b>(67)</b> , and the relevant Police Authority within the meaning of Part I of the Police Act 1964 <b>(68)</b> and Part IV of the Local Government Act 1985.
<b>14.</b> The right to monitor, survey or investigate land (including any right to make trial holes in land).	<b>14.</b> Every owner and occupier of the land, other than an owner or occupier named in the book of reference as having an interest or right in or over that land.
<b>15.</b> Works or traffic management measures that would affect services provided by the Post Office relating to the delivery or collection of letters.	<b>15.</b> The Post Office.
<b>16.</b> Works in an area of coal working notified to the local planning authority by the British Coal Corporation or the Coal Authority.	<b>16.</b> The holder of the current licence under section 36(ii) of the Coal Industry Nationalisation Act 1946 <b>(69)</b> or under Part II of the Coal Industry Act 1994 <b>(70)</b> .

## SCHEDULE 7

Rules 12(7)(d) and 20

## FEES

## PART I

## TABLE OF FEES

(1) <i>Subject-matter of application</i>	(2) <i>Fee</i>
<b>1.</b> Construction of a transport system or inland waterway which would involve any compulsory acquisition of land but would	<b>1.</b> For the first hectare or part hectare of the proposed works, £6,000. For the next 49 hectares, £1,000 per hectare or part hectare.

**(66)** 1981 c. 67.**(67)** 1985 c. 51.**(68)** 1964 c. 48.**(69)** 1946 c. 59.**(70)** 1994 c. 21.

(1) <i>Subject-matter of application</i>	(2) <i>Fee</i>
not involve any interference with rights of navigation.	For the next 50 hectares, £500 per hectare or part hectare. For any additional area, £250 per hectare or part hectare.
<b>2.</b> Construction of a transport system or inland waterway which would not require the compulsory acquisition of land and not interfere with rights of navigation.	<b>2.</b> For the first hectare or part hectare of the proposed works, £4,000. For the next 49 hectares, £500 per hectare or part hectare. For any additional area, £100 per hectare or part hectare.
<b>3.</b> Construction of works any part of which would involve interference with rights of navigation, being of a description prescribed under section 4.	<b>3.</b> — (A) Where the works to be constructed would not form part of a transport system or an inland waterway— for the first hectare or part hectare of the proposed works, £8,000; for the next 49 hectares, £1,500 per hectare or part hectare; for the next 50 hectares, £750 per hectare or part hectare; and for any additional area, £375 per hectare or part hectare. (B) Where the works to be constructed include works which would form part of a transport system or an inland waterway— for works which would interfere with rights of navigation, as in column (2) of paragraph (A) above; and for other works, as in column (2) of paragraph 1 or 2, as applicable, above.
<b>4.</b> Provision for the transfer of an undertaking.	<b>4.</b> £1,500.
<b>5.</b> Provision for any matter other than those described above.	<b>5.</b> £3,500.

## PART II

### CALCULATION OF FEES

- 1.** In this Schedule, except where the context otherwise requires—
- “compulsory acquisition of land” includes the compulsory extinguishment of easements and other private rights over land (including private rights of navigation over water) and the acquisition of rights to place equipment in a street, to use land, or carry out protective works to a building;
- “proposal” means—
- (a) in relation to proposed works—

- (i) a single work or works forming an integral whole, or
  - (ii) a works project consisting of two or more interdependent parts directed at the same purpose; and
- (b) in relation to any other provision of a draft order—
- (i) a provision not reliant upon any other provision (other than an interpretative or other general provision) for its force and effect, or
  - (ii) two or more interdependent provisions directed at the same purpose;
- and references to the number of hectares of the proposed works relate to—
- (c) the aggregate area of the land contained within the limits of deviation shown on the plans deposited with the application within which it is intended that the proposed works (or part of them) shall be constructed; or
- (d) where no such limits are shown, the aggregate area contained within the boundaries of the land shown on such plans and upon which it is intended that the proposed works (or part of them) shall be constructed.
2. A fee specified in the table in Part I of this Schedule is payable in respect of each proposal in a draft order to which that fee applies.
3. A fee paid under categories 1 to 3 of Part I of this Schedule shall cover provisions which are ancillary to the proposed works, such as a power to operate them as a railway or to transfer the undertaking, and no additional fee shall be payable in relation to those ancillary provisions.

## SCHEDULE 8

Rule 21

### PROPOSALS FOR ORDERS UNDER SECTION 7

1. The requirements of this Schedule shall apply where the Secretary of State proposes to make an order under section 7.
- 2.—(1) The Secretary of State shall make a screening decision in relation to the proposals if they include works which constitute a project of a type mentioned in Annex II to the Directive<sup>(71)</sup>.
- (2) Before making a screening decision the Secretary of State shall, where he considers it appropriate to do so, serve notice on—
- (a) every local planning authority in whose area the works referred to in the proposed order would be carried out or the relevant coastal authority (as the case may be), and
  - (b) those mentioned in rule 5(2)(b), (c) and (d) and rule 8(4)(d) above (in the circumstances mentioned in those provisions),
- of his intention to make a screening decision.
- (3) The Secretary of State shall include in each notice served pursuant to sub-paragraph (2) above
- 
- (a) a plan sufficient to identify the land affected by the works or matters in question;
  - (b) a brief description of the nature and purpose of the proposed order; and
  - (c) a brief description of the possible effects on the environment of the works or matters in question.

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<sup>(71)</sup> Annex II is amended by Council Directive [97/11/EC](#) (see rule 4 above).

(4) The recipient of a notice served under sub-paragraph (2) above shall, not later than 42 days after receiving the notice, provide the Secretary of State with a written opinion as to whether or not, in the view of the recipient, the works or matters in question should be the subject of an environmental impact assessment.

(5) In making his screening decision, the Secretary of State shall comply with the requirements of rule 7(11) and (12) above.

3. The Secretary of State shall publish a notice of the proposals in the London Gazette, which notice shall include—

- (a) the title of the proposed order and such further information (if any) as is necessary to identify the nature of the proposals and the location of the proposed works or matters;
- (b) the address to which objections and representations are to be sent and the date of expiry of the period within which objections and representations must be made (being not less than 42 days from the date of this notice); and
- (c) the address to which requests may be made for further information about the proposed order (and, if applicable, any proposed direction for deemed planning permission or deemed hazardous substances consent).

4. The Secretary of State shall publish, in the newspapers prescribed in rule 14(3) above, a notice containing the information specified in paragraph 5 below, such notice to be published on 2 separate occasions, the first publication to be not more than 14 days before, and not later than, the date of the notice mentioned in paragraph 3 above, and the second to be not more than 7 days after that date.

5. The information referred to in paragraph 4 above is—

- (a) a concise summary of the works and other matters for which provision is made in the proposed order;
- (b) if applicable, a statement that the Secretary of State proposes to direct that planning permission or hazardous substances consent, as the case may be, shall be deemed to be granted;
- (c) in cases in which authority is to be given for any works which constitute a project falling within Annex I to the Directive, a statement that the proposals are to be subject to an environmental impact assessment, or where a screening decision has been made by the Secretary of State, the screening decision;
- (d) the names of all places, which shall be places within the area to which the proposals in the proposed order relate (or as close as reasonably possible to that area), where a copy of the proposed order and copies of the documents referred to in paragraph 8 below may be inspected, free of charge, at all reasonable hours for a specified period, being a period which expires not less than 42 days after the date of the notice published under paragraph 3 above; and
- (e) a statement that, until the end of the period specified pursuant to sub-paragraph (d) above, any objection to the making of the order, or any other representation in relation to it, may be made by writing, stating the grounds for the objection or representation, to the Secretary of State at an address specified in the notice.

6. The notice referred to in paragraph 4 above need not contain information pursuant to paragraph 5(a) and (d) above concerning any proposal in the proposed order which is not relevant to the area in which the local newspaper circulates.

7. The Secretary of State shall, forthwith after the date of the publication of the notice required by paragraph 3 above, serve a copy of the proposed order and the documents mentioned in paragraph 8 below upon—

- (a) every local authority in whose area a transport system, inland waterway or other works to which the proposal relates is or are, or is or are to be, situated, or every relevant coastal authority, as the case may be,
- (b) in the case of proposals affecting land in, or adjacent to, or tidal waters in, or adjacent to, England, the Nature Conservancy Council for England and the Countryside Agency,
- (c) in the case of proposals affecting land in, or adjacent to, or tidal waters in, or adjacent to, Wales, the Countryside Council for Wales,
- (d) in the case of a proposal to make an order pursuant to section 7(1)(a), where the transport system, inland waterway or other works to which the proposal relates is or are to be situated, wholly or partly, in Wales, the National Assembly for Wales, and
- (e) in the case of a proposal to make an order pursuant to section 7(1)(b) or (c), where the transport system, inland waterway or other works to which the proposal relates is or are to be situated partly in Wales, the National Assembly for Wales<sup>(72)</sup>.

and shall deposit copies of the proposed order and those documents in the library of the House of Commons and, where he considers it appropriate, in the library of the House of Lords.

8.—(1) The documents to be served by virtue of paragraph 7 above are—

- (a) a concise memorandum explaining the powers sought, and the other matters for which provision is made in the proposed order;
- (b) a copy of any waiver under paragraph 21 below;
- (c) where—
  - (i) the proposed order would authorise any matter falling within Annex I to the Directive, or
  - (ii) the Secretary of State has made a screening decision determining that the proposals are to be made subject to an environmental impact assessment,
 an environmental statement, on the contents of which the Secretary of State shall have previously consulted—
  - (i) those mentioned in sub-paragraphs (a) to (c) of paragraph 7 above (in the circumstances there mentioned); and
  - (ii) where the proposals relate to a project within tidal waters and would require a licence under Part II of the Food and Environment Protection Act 1985<sup>(73)</sup>, the Minister of Agriculture, Fisheries and Food;
- (d) where the proposed order would authorise the carrying out of works—
  - (i) such of the plans and sections described in paragraphs (1) and (3) of rule 12 above as are relevant to the works (subject to paragraph (7) of that rule);
  - (ii) an estimate of the cost of implementing the proposed order, which shall, in so far as it relates to any of the matters included in Schedule 4 above, be in the form set out in that Schedule or as nearly in that form as circumstances permit;
- (e) where the proposed order would authorise the compulsory acquisition of land or the right to use land, or to carry out protective works to buildings, or the compulsory extinguishment of easements and other private rights in or over land (including private rights of navigation

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<sup>(72)</sup> The power to make an order pursuant to section 7(1)(b) and (c), where the transport system, inland waterway or other works are wholly in Wales is devolved to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672; see the entry in Schedule 1 to that Order that relates to the Transport and Works Act 1992 and see rule 28 above.

<sup>(73)</sup> 1985 c. 48.

- over water), the plan and book of reference respectively described in paragraphs (4) and (6) of rule 12 above, subject to paragraphs (8) and (9) of that rule;
- (f) where the Secretary of State proposes to direct, under section 90(2A) of the Planning Act, that planning permission be deemed to be granted—
- (i) a statement, signed by or on behalf of the Secretary of State, specifying the development to which the direction would apply and any proposed conditions attaching to it, including a list of any matters to be reserved for subsequent approval by the local planning authority;
  - (ii) in respect of those matters not intended to be reserved for subsequent approval by the local planning authority, such further documents and information as may be necessary to support the making of such a direction;
- (g) where the Secretary of State proposes to direct, under section 12 of the Planning (Hazardous Substances) Act 1990(74) that hazardous substances consent shall be deemed to be granted—
- (i) Form 1 or Form 2 of the forms prescribed in Schedule 2 to the Planning (Hazardous Substances) Regulations 1992(75), as the case may require, duly completed and signed by or on behalf of the Secretary of State;
  - (ii) the information and documentation specified in such one or more of regulations 5(1)(b), 5(2)(b) and 5(3)(b) of those Regulations as the case may require.
- (2) The Secretary of State shall include in any environmental statement the material required to be included in such a statement by rule 11 above.

**9.** Where the provisions in the proposed order relate to works of a kind described in section 3(1)(b), the Secretary of State shall serve a copy of the proposed order and supporting documents upon the Trinity House.

**10.** Where the proposed order includes works or other matters specified in any of the categories in column (1) of the table in Schedule 5 above, the Secretary of State shall, forthwith after the date of publication of the notice under paragraph 3 above, serve upon those named against such category in column (2) of that table, a copy of the proposed order and those of the supporting documents mentioned in rule 13(6)(d) to (g) above as are relevant to the case in question, and shall state the capacity in which the recipient is served.

**11.** Where the proposed order includes works or other matters specified in any of the categories in column (1) of the table in Schedule 6 above, the Secretary of State shall, forthwith after the date of publication of the notice under paragraph 3 above, serve upon those named against such category in column (2) of that table a notice containing the information specified in paragraph 5 above, and every notice shall state the capacity in which the recipient of the notice is served.

**12.—(1)** This paragraph shall apply where—

- (a) it appears to the Secretary of State that the proposed order relates to works which would be likely to have significant effects on the environment in another Member State; or
  - (b) another Member State, whose environment is likely to be significantly affected by the works to which the proposals relate, requests information relating to the application.
- (2) Where this paragraph applies, the Secretary of State shall—
- (a) comply with the requirements of rule 16(3)(a) and (b), (4), (5)(c), (6)(a) to (d) and (7); and
  - (b) send to the Member State in question (in so far as those documents and information have not already been supplied to that state)—

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(74) 1990 c. 10.

(75) S.I. 1992/656.

- (i) a copy of the proposed order; and
- (ii) a copy of any environmental statement that he has prepared in relation to the proposed order.

**13.** Where the proposed order includes works, the Secretary of State shall, forthwith after the date of publication of the notice under paragraph 3 above, display a notice in the form of Form 3 in Schedule 3 to these Rules upon, or as close as reasonably practicable to, the proposed sites of those works at a place accessible to the public and, where the order includes linear works exceeding 5 kilometres in length, such a notice shall be displayed at intervals of not more than 5 kilometres along the whole of the proposed route of the works.

**14.** Where the proposed order would authorise—

- (a) the extinguishment or diversion (whether such diversion would be permanent or temporary) of a public right of way, or
- (b) the stopping-up or diversion of a street or the restriction on the use of a street by any persons or traffic, whether such stopping-up, diversion or restriction would be permanent or, in the case of a street specifically named in the proposed order, temporary,

the Secretary of State shall, forthwith after the publication of the notice under paragraph 3 above, display a notice in the form of Form 4 in Schedule 3 to these Rules, upon the right of way or street at, or as close as is reasonably practicable to, each point of extinguishment, diversion, stopping-up or restriction.

**15.** Where the proposed order would authorise the discontinuance of all railway passenger or tramway services from any station, or upon any line, to which the provisions of sections 37 to 39 of, or Schedule 5 to, the Railways Act 1993(76) apply, the Secretary of State shall, forthwith after the publication of the notice under paragraph 3 above, display a notice in the form of Form 5 in Schedule 3 to these Rules at every station to be closed and every station directly served by the line to be closed to passenger services.

**16.** The Secretary of State shall use his best endeavours to ensure that every notice displayed under the provisions of paragraphs 13 to 15 above shall continue to be displayed in a legible form for a period of 42 days from the date on which it is first displayed.

**17.** The Secretary of State shall, as soon as reasonably practicable after the date of publication of the notice under paragraph 3 above, supply, to any person who requests it, a copy of the proposed order or of any document required by this Schedule to support it, subject to the payment by that person of a reasonable charge for the provision of that copy, and the Secretary of State shall ensure that information as to how such copies may be obtained is displayed at every place at which the proposed order and supporting documents are made available for inspection.

**18.** Where paragraph 8(e) above applies, the Secretary of State shall, forthwith after the date of publication of the notice under paragraph 3 above, serve a notice in the form of Form 6 in Schedule 3 to these Rules upon all those named in the book of reference.

**19.** Where, pursuant to rule 12(8) above (as applied by paragraph 8(1)(e) above), the name of an owner or occupier of land, or a person enjoying rights over land, has not been included in the book of reference, the Secretary of State shall, forthwith after the date of publication of the notice under paragraph 3 above, serve on the person whose name has not been included a notice in the form of Form 6 in Schedule 3 to these Rules in the manner provided in section 66(4)(a) and (b).

**20.** In the case of a project within Annex I to the Directive, or which the Secretary of State has determined shall be subject to an environmental impact assessment, the Secretary of State shall ensure that those mentioned at sub-paragraphs (a) to (c) of paragraph 7 above and rule 8(4)(d) above

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(76) 1993 c. 43.

(in circumstances mentioned in those provisions) are given an opportunity to express their opinions on the environmental statement and on the proposal to make the order (and, if applicable, the proposal to direct that planning permission or hazardous substances consent be deemed to be granted).

**21.** Subject to paragraph 22 below, the Secretary of State may, following consultation with all those he considers would be likely to be affected, waive any provision of this Schedule, in whole or in part, where he considers that it is impossible, impracticable or unnecessary for him to comply with that provision or to comply with it in full.

**22.** The Secretary of State shall not waive any provision of paragraphs 2, 3, 4, 7, 12, 17, 20 or 23(a) of this Schedule.

**23.** The following provisions of these Rules shall also have effect in relation to the Secretary of State's proposal to make an order—

- (a) rule 6;
- (b) rule 22(1), with the exception of the words “subject to paragraph (2) below”;
- (c) rule 22(3), with the substitution for the words “rules 23 to 26 below” the words “rules 24 to 26 below, as applied by paragraph 23 of Schedule 8 to these Rules”;
- (d) rule 24(1) to (5);
- (e) rule 25(5), with the exception of the words “the applicant or”;
- (f) rule 25(6); and
- (g) rule 26, with the insertion, after the words “rule 22 above” of “as applied by paragraph 23 of Schedule 8 to these Rules”.

**24.** Where by virtue of this Schedule any provisions of these Rules apply in relation to a proposal of the Secretary of State to make an order under section 7, any reference in those provisions to—  
an “applicant” shall be construed as references to the Secretary of State; and  
an “application” shall be construed as references to the publication by the Secretary of State of a notice of a proposal to make an order under section 7.

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## EXPLANATORY NOTE

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

These Rules replace the Transport and Works (Applications and Objections Procedure) Rules 1992. The Rules prescribe the procedures for—

- the making of applications for orders under Part I of the Transport and Works Act 1992 (“the Act”),
- proposals for orders to be made by the Secretary of State otherwise than on application, and
- the making of objections and representations relating to such applications and proposals.

They also prescribe the procedures for the handling of objections where the Secretary of State decides not to hold a public inquiry or hearing under section 11 of the Act.

The Rules include changes to implement the amendments to Council Directive 85/337/EEC (“the Directive”) on environmental impact assessment made by Council Directive 97/11/EC.

The main changes to the previous system made by the Rules are—

- (a) whilst an application which falls within Annex I to the Directive will remain subject to an environmental impact assessment, for other applications (including those within Annex II to the Directive) this will not automatically be the case;
- (b) a prospective applicant will be able to request the Secretary of State to determine whether the project should be subject to environmental impact assessment;
- (c) before submitting an application for a project for which an environmental impact assessment is or may be required, an applicant will be able to require the Secretary of State to give an opinion as to the information to be provided in the environmental statement;
- (d) where a project is likely to have significant effects on the environment in another Member State of the European Community the Secretary of State will be required to notify and consult that State and to enable it, if it wishes, to participate in the environmental assessment procedure;
- (e) in the case of applications which are to be subject to an environmental impact assessment, the Secretary of State will be required to ensure that certain authorities with environmental responsibilities are given the opportunity to express their opinion on the applicant's environmental statement and the proposal to make the order;
- (f) where the proposed order would authorise the carrying-out of works comprising a project within the meaning of the Directive (as amended), the applicant will be required to serve notices of intended application upon the Secretary of State, the Environment Agency, any relevant local authority or coastal authority and, for works affecting land in, or adjacent to, or tidal waters in or adjacent to, England, the Nature Conservancy Council for England and the Countryside Agency or, for works affecting land in, or adjacent to, or tidal waters in or adjacent to Wales, the Countryside Council for Wales;
- (g) where an applicant is a body corporate, it will be possible for the application to be signed by a duly authorised officer or agent of that body (previously the signatory had to be a director or the secretary);
- (h) a statement of views from the relevant local planning authority will no longer have to accompany the application;
- (i) in the evidence required to be submitted by the applicant after the date of the application, copies of notices in newspapers and publications will have to be included;
- (j) the Secretary of State will not be able to give a waiver allowing the applicant not to comply with certain of the provisions made by the Rules that are required by the Directive;
- (k) there are changes of detail to the plans and sections that are required to be submitted with the application;
- (l) the charges applying to the making of an application have been revised and the maximum fee has been discontinued;
- (m) specific provisions have been made by Schedule 8 for those cases in which the Secretary of State proposes to make an order without an application being made to him, under the provisions of section 7 of the Act;
- (n) certain changes are made relating to the persons who are to receive copies of the application and the documents submitted with it and to those persons who are to receive notices of an application; and
- (o) specific provisions are made for applications that fall to be considered by the National Assembly for Wales (essentially applications relating solely to Wales and some proposals to make orders under section 7).

A Regulatory Impact Assessment has been prepared in relation to these Rules. It has been placed in the library of each House of Parliament and copies may be obtained from the TWA Processing Unit, Department of the Environment, Transport and the Regions, Zone 3/11, Great Minster House, 76 Marsham Street, SW1P 4DR (Telephone 020-7944 2474).