

SCHEDULE 2

Amendments to the Highways Act 1980

3. For section 105A substitute—

“Screening of projects for constructing or improving highways

105A.—(1) If a project authority is considering a project for constructing or improving a highway for which it is the highway authority, the project authority must, before details of the project are published, determine—

- (a) whether or not the project falls within Annex I or Annex II, and
- (b) if it considers the project is a relevant project falling within Annex II, whether it should be made subject to an environmental impact assessment.

(2) In this Part “project authority” means—

- (a) the Secretary of State,
- (b) the Welsh Ministers, or
- (c) a strategic highways company.

(3) When making a determination under subsection (1)(b), a project authority must have regard to the following—

- (a) the information to be provided on the project under Annex II.A,
- (b) the selection criteria in Annex III,
- (c) any features of the project or measures envisaged to avoid or prevent what might otherwise be significant adverse effects on the environment, and
- (d) the results of any relevant environmental assessment which are reasonably available to the authority.

(4) The project authority must make a determination under subsection (1)(b)—

- (a) as soon as possible, and
- (b) in any event within the period of 90 days beginning with the day on which it has access to the information mentioned in paragraphs (a), (c) and (d) of subsection (3).

(5) If the project authority is satisfied that it is appropriate to do so by reason of exceptional circumstances relating to a project (including circumstances relating to the nature, complexity, location or size of project), it may extend the period specified in subsection (4)(b).

Exemptions

105AA.—(1) A project to which subsection (2) applies is to be treated in the same way as a project that the project authority considers does not fall within Annex I or Annex II.

(2) This subsection applies to a project if—

- (a) the Secretary of State directs that the project is a defence project, or
- (b) the project authority determines that—
 - (i) the project is a civil emergency project, or
 - (ii) the exemption in subsection (6) applies to the project.

(3) The Secretary of State may direct that a project is a defence project only if satisfied that—

Status: This is the original version (as it was originally made).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

- (a) the project has national defence as its sole purpose, and
 - (b) carrying out an environmental impact assessment would have an adverse effect on the fulfilment of that purpose.
- (4) The Secretary of State must send a copy of any direction given under subsection (3)—
- (a) to the Welsh Ministers, if the Welsh Ministers are the highway authority for the highway to which the project relates;
 - (b) to the strategic highways company, if the company is the highway authority for the highway to which the project relates.
- (5) A project authority may determine that a project is a civil emergency project only if satisfied that—
- (a) the project has the response to a civil emergency as its sole purpose, and
 - (b) carrying out an environmental impact assessment in respect of the project would have an adverse effect on the fulfilment of that purpose.
- (6) A project authority may determine that this subsection applies to a project only if satisfied that—
- (a) it is appropriate to do so by reason of exceptional circumstances,
 - (b) carrying out an environmental impact assessment in respect of the project would have an adverse effect on the fulfilment of the purpose of the project,
 - (c) the objectives of the Directive will be met even though such an assessment is not carried out, and
 - (d) the project is unlikely to have significant effects on the environment in another EEA State.
- (7) Before making a determination under subsection (6), the project authority must consider whether another form of assessment of the effects of the project on the environment would be appropriate.

Publication of screening decisions: projects not to be subject to an environmental impact assessment

- 105AB.**—(1) The project authority must publish a notice of—
- (a) any determination that the exemption in section 105AA(6) applies to a project;
 - (b) any determination that a relevant project falling within Annex II should not be made subject to an environmental impact assessment.
- (2) A notice under subsection (1)(a) must—
- (a) state the reasons for the determination, and
 - (b) state whether another form of assessment of the effects of the project on the environment is considered appropriate.
- (3) A notice under subsection (1)(b) must—
- (a) state the reasons for the determination with reference to the relevant selection criteria in Annex III, and
 - (b) include a description of any features of the project, or other measures, which are proposed by the authority to avoid or prevent significant adverse effects on the environment.
- (4) If the project authority publishes a notice under subsection (1)(a), the project authority must publish the results of any other assessment considered appropriate for the purposes of section 105AA(7).”