

SCHEDULE 3

Regulation 5

Amendments to the Transport and Works Act 1992

1. Part 1 of the 1992 Act is amended as follows.
2. In section 6 (applications for orders under section 1 or 3 of the 1992 Act)—
 - (a) in subsection (2B), for “environmental information” substitute “EIA information (see section 13A)”;
 - (b) for subsection (7), substitute—

“(7) In subsection (3) above “relevant authority” means—

 - (a) Natural England;
 - (b) the Natural Resources Body for Wales;
 - (c) a local planning authority, within the meaning of Part 1 of the Town and Country Planning Act 1990;
 - (d) any other person or authority having specific environmental responsibilities, or local or regional competences, which the Secretary of State considers is likely to have an interest in an application a person proposes to make.”
3. In section 13—
 - (a) in the heading, after “or 3” insert “: general”;
 - (b) after subsection (5), insert—

“(6) This section is subject to sections 13B to 13D (which make provision about the consideration of applications or proposals for EIA orders and the making of such orders).”
4. After section 13 insert—

“Environmental impact assessment: definitions

13A.—(1) This section defines certain terms used in this Part.

(2) “The EIA Directive” means [Directive 2011/92/EU](#) of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment.

(3) “EIA information”, in relation to an application under section 6, or proposal under section 7, for an EIA order, means—

- (a) the environmental statement,
- (b) any other information which the Secretary of State reasonably requires for the purpose of reaching a reasoned conclusion (see section 13B), and
- (c) any representations made by any person about the environmental effects of the proposed works or other projects.

(4) “EIA order” means an order authorising works or other projects—

- (a) which are—
 - (i) in a class listed in Annex I to the EIA Directive, or
 - (ii) in a class listed in Annex II to the EIA Directive and, by virtue of their nature, size or location, likely to have significant effects on the environment, and
- (b) which are not exempt works.

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(5) For the purposes of subsection (4), works or other projects are exempt if the Secretary of State directs or decides (in accordance with rules made under section 6) that an environmental impact assessment is not required in respect of those works or projects.

(6) “Environmental statement” means a statement which, by rules under section 6, is required—

(a) to accompany an application for, or be prepared in connection with the publication of a proposal to make, an EIA order, and

(b) amongst other matters, to set out the likely significant effects of the implementation of the EIA order applied for or proposed on the environment.

(7) “Reasoned conclusion” means a reasoned conclusion under section 13B(1)(b).

Application or proposal for an EIA order: reasoned conclusion

13B.—(1) Before making a determination under section 13(1) in respect of an application or proposal for an EIA order, the Secretary of State—

(a) must consider the EIA information, and

(b) following that consideration, must reach a reasoned conclusion about the likely significant effects of the proposed works or other projects on the environment.

(2) The Secretary of State must obtain such expert advice as appears to the Secretary of State to be necessary for the purposes of considering the environmental statement.

(3) When making a determination under section 13(1) in respect of an application or proposal for an EIA order, the Secretary of State must take into account the reasoned conclusion.

(4) But the Secretary of State may determine to make an EIA order (whether with or without modifications) only if satisfied that the reasoned conclusion is up to date.

EIA orders: monitoring measures and remedial action

13C.—(1) If the Secretary of State proposes to make an EIA order (whether with or without modifications), the Secretary of State must consider whether monitoring of the significant adverse effects of the works or other projects on the environment to be authorised by the order is appropriate and, if so, must consider—

(a) whether it is appropriate to impose a monitoring measure, and

(b) whether it is appropriate to impose a requirement to take remedial action.

(2) In this section, “monitoring measure”, in relation to proposed works or other projects, means a requirement to monitor any significant adverse effects of the works or projects on the environment.

(3) For the purposes of subsection (1)(a), the Secretary of State must take into account any monitoring arrangements which are required to be carried out under the law of any part of the United Kingdom (other than a provision implementing the EIA Directive).

(4) The Secretary of State may impose a monitoring measure or a requirement to take remedial action in the EIA order or, if the Secretary of State gives a direction under section 90(2A) of the Town and Country Planning Act 1990 on the making of the EIA order, by way of condition specified in that direction.

(5) But the Secretary of State may impose a monitoring measure only if satisfied that the type of parameters which will be required to be monitored and the duration of such monitoring are proportionate having regard to—

(a) the nature, location and size of the proposed works or other projects, and

- (b) the significance of the effects of the works or other projects on the environment.

Application or proposal for an EIA order: time limit

13D. The Secretary of State must make a determination under section 13(1) in relation to an application or proposal for an EIA order within a reasonable period of time (having regard to the nature and complexity of the works or other project to which it relates) beginning on the day on which the Secretary of State has all of the information necessary to reach the reasoned conclusion.”

5.—(1) Section 14(1) (publicity for making or refusal of orders) is amended as follows.

(2) For subsection (1), substitute—

“(1) As soon as practicable after making a determination under section 13(1) above, the Secretary of State must—

- (a) give notice of the determination to the persons specified in subsection (1A),
- (b) publish a notice of the determination in the London Gazette, and
- (c) if it relates to an EIA order, make a notice of the determination available on a website maintained by or on behalf of the Secretary of State.

(1A) The specified persons are—

- (a) the person (if any) who applied for the order;
- (b) any person who made an objection which was referred to an inquiry or hearing in accordance with section 11(3);
- (c) if the determination is that an EIA order is to be made, to any authority the Secretary of State considers is likely to be concerned by the works or other projects authorised by the order because of their specific environmental responsibilities or local and regional competencies.”

(3) In subsection (3A)—

- (a) for “to which this subsection applies” substitute “for an EIA order”;
- (b) in paragraph (a), for “considered the environmental statement” substitute “complied with sections 13B to 13D”.

(4) For subsection (3AA), substitute—

“(3AA) If an EIA order is to be made—

- (a) the notice under subsection (1)(a) must also include the address of the website on which it is to be made available under subsection (1)(c), and
- (b) the notices under subsection (1)(a) and (c) must include the information specified in subsection (3AB).

(3AB) The specified information is—

- (a) in so far as they relate to the likely significant effects of the proposed works or other projects on the environment, a summary of —
 - (i) the results of any consultation undertaken in accordance with rules made under section 6 (including in particular any comments made by, or the authorities in or public of, another Member State), and
 - (ii) any objections made in accordance with rules made under section 10,

(1) As amended by paragraph 34(2) of Schedule 7 to the Local Government (Wales) Act 1994 (c. 19), S.I. 1995/1541, S.I. 1998/2226 and S.I. 2006/958.

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- (b) a summary of how those results and objections have been taken into account in making the determination,
 - (c) the reasoned conclusion,
 - (d) a description of any features of the works or other projects, or measures, to avoid, prevent or reduce and, if possible, offset any likely significant adverse effects of the works or other projects on the environment, and
 - (e) a statement of any monitoring measures, requirements to take remedial action or other conditions relating to the likely significant effects of the proposed works or other projects on the environment that are imposed.”
- (5) Omit subsection (3B).
- (6) Omit subsection (3D).