

Changes to legislation: Harbours Act 1964, Cross Heading: Introductory is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

[^{F1}SCHEDULE 3

PROCEDURE FOR MAKING HARBOUR REVISION AND EMPOWERMENT ORDERS

Textual Amendments

- F1** Sch. 3 substituted (1.2.2000) by [The Harbour Works \(Environmental Impact Assessment\) Regulations 1999 \(S.I. 1999/3445\)](#), reg. 15(4), **Sch. 3**

Modifications etc. (not altering text)

- C1** Sch. 3 modified (1.4.2001) by [2000 c. 38, s. 37, Sch. 5 para. 1\(2\)\(j\)](#) (with s. 106); [S.I. 2001/869, art.2](#)
- C1** Sch. 3: transfer of functions (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 29\(2\)\(b\)\(ii\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179, reg. 3\(g\)](#) (with transitional provisions and savings in [S.I. 2018/278, reg. 2, Sch.](#))
- C1** [Sch. 3](#): power to amend or repeal conferred for specified purposes (26.12.2023) by [Levelling Up and Regeneration Act 2023 \(c. 55\), ss. 164\(3\), 255\(5\), Sch. 14 Pts. 1, 2](#) (with s. 247)

PART I

ORDERS MADE ON APPLICATION TO THE SECRETARY OF STATE

Introductory

1 In this Part of this Schedule—

^{F2}

[^{F3}“EEA Agreement” and “EEA State” have the meanings given in Schedule 1 to the Interpretation Act 1978;]

[^{F4}“EIA application” means an application for a harbour revision order authorising a project which requires an environmental impact assessment;]

[^{F4}“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;]

[^{F4}“the environment” means—

- (a) population and human health,
- (b) biodiversity, with particular attention to species and habitats protected under [^{F5}any law of any part of the United Kingdom which implemented] the Habitats Directive and the Wild Birds Directive,
- (c) land, soil, water, air and climate,
- (d) material assets, cultural heritage and the landscape, and
- (e) the interaction between the factors referred to in paragraphs (a) to (d);]

[^{F6}“environmental assessment” means an assessment of the effect of anything on the environment if the assessment is carried out under—

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- (a) [^{F7}assimilated] law, or
- (b) any law of any part of the United Kingdom, other than any law which implemented the EIA Directive;]

[^{F8}“environmental impact assessment”, in relation to a project, means the process comprising—

- (a) the preparation of an environmental statement by the applicant,
- (b) the carrying out of consultations under this Part of this Schedule about the likely significant effects of the project on the environment,
- (c) the Secretary of State’s consideration of the information about the likely significant effects of the project on the environment (see paragraph 18A(2)),
- (d) the Secretary of State reaching a reasoned conclusion on the significant effects of the project on the environment (see paragraph 18A(4)), and
- (e) the Secretary of State’s consideration of that reasoned conclusion when making a decision under paragraph 19 in respect of the application for a harbour revision order authorising the project;]

[^{F9}“environmental impact assessment”, in relation to a project, means the process comprising—

- (a) the preparation of an environmental statement by the applicant,
- (b) the carrying out of consultations under this Part of this Schedule about the likely significant effects of the project on the environment,
- (c) the Scottish Ministers’ consideration of the information about the likely significant effects of the project on the environment (see paragraph 18A(2)),
- (d) the Scottish Ministers’ reaching a reasoned conclusion on the significant effects of the project on the environment (see paragraph 18A(4)), and
- (e) the Scottish Ministers’ consideration of the reasoned conclusion when making a decision under paragraph 19 in respect of the application for a harbour revision order authorising the project;]

^{F10}

[^{F11}“environmental statement” has the meaning given in paragraph 8(2);]

“fishery harbour” has the meaning assigned to it in section 21 of the Sea Fish Industry Act 1951;

[^{F12}“the Habitats Directive” means Council [Directive 92/43/EEC](#) of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora;]

[^{F13}“official website” means a website maintained by or on behalf of the Secretary of State;]

[^{F14}“official website” means a website maintained by or on behalf of the Scottish Ministers;]

“project” means—

- (a) the execution of construction works or other installations or schemes, and
- (b) other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources;

[^{F15}“reasoned conclusion”, in relation to a project, means the conclusion required by paragraph 18A(4);]

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- [^{F15}“screening decision” has the meaning given in paragraph 4(4);]
- “relevant project” means a project which would be likely to have significant effects on the environment by virtue of factors such as its nature, size or location;
- “selection criteria” means the criteria set out in Annex III to the [^{F16}EIA Directive];
- “sensitive area” means any of the following—
- (a) [^{F17}land within a site of special scientific interest (within the meaning of the Wildlife and Countryside Act 1981);]

[^{F18}land within a site of special scientific interest;]
 - (b) [^{F18}land in respect of which a nature conservation order or land management order made under Part 2 of the Nature Conservation (Scotland) Act 2004 (asp 6) has effect;]
 - (c) [^{F19}land declared to be a national nature reserve under section 35 of that Act;]
 - (d) [^{F19}an area to which paragraph (u)(ii) in the table in article 10 of the Town and Country Planning (General Development Procedure) Order 1995 applies;]
 - (e) [^{F19}a National Park within the meaning of the National Parks and Access to the Countryside Act 1949;]
 - (f) [^{F19}the Broads within the meaning of the Norfolk and Suffolk Broads Act 1988;]
 - (g) 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;
 - (h) a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979;
 - (i) [^{F19}an area of outstanding natural beauty designated by order under [^{F20}section 87 of the National Parks and Access to the Countryside Act 1949][^{F20}section 82 of the Countryside and Rights of Way Act 2000] (designation of areas of outstanding natural beauty);]
 - (j) [^{F21}a European site within the meaning of regulation 10 of the Conservation (Natural Habitats etc) Regulations 1994;]

[^{F21}a European site within the meaning of [^{F22}the Conservation of Habitats and Species Regulations 2017 (see regulation 8)];]
 - (k) an area designated ^{F23}... [^{F24}as a National Scenic Area by a direction made by the Scottish Ministers under section 263A of the Town and Country Planning (Scotland) Act 1997];
 - (l) [^{F25} an area designated as a national park by a designation order made by the Scottish Ministers under section 6(1) of the National Parks (Scotland) Act 2000].
- [^{F26}“the Wild Birds Directive” means [Directive 2009/147/EC](#) of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds;]

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Textual Amendments

- F2** Words in Sch. 3 para. 1 omitted (E.W.) (5.12.2017) by virtue of [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017](#) (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(2)(a)** (with Sch. 6 paras. 2(2), 3(3))
 Words in Sch. 3 para. 1 omitted (S.) (5.12.2017) by virtue of [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017](#) (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(3)(a)** (with Sch. 6 paras. 2(2), 3(3))
- F3** Words in Sch. 3 para. 1 substituted (E.W.) (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017](#) (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(2)(b)** (with Sch. 6 paras. 2(2), 3(3))
 Words in Sch. 3 para. 1 substituted (S.) (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017](#) (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(3)(b)** (with Sch. 6 paras. 2(2), 3(3))
- F4** Words in Sch. 3 para. 1 inserted (E.W.) (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017](#) (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(2)(c)** (with Sch. 6 paras. 2(2), 3(3))
 Words in Sch. 3 para. 1 inserted (S.) (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017](#) (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(3)(c)** (with Sch. 6 paras. 2(2), 3(3))
- F5** Words in Sch. 3 para. 1 inserted (31.12.2020) by [The Harbours and Highways \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/460), regs. 1, **2(4)(a)(i)(b)(i)**
- F6** Words in Sch. 3 para. 1 substituted (31.12.2020) by [The Harbours and Highways \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/460), regs. 1, **2(4)(a)(ii)(b)(ii)**
- F7** Word in Sch. 3 para. 1 substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023](#) (S.I. 2023/1424), reg. 1(2), **Sch. para. 3(2)(a)**
- F8** Words in Sch. 3 para. 1 inserted (E.W.) (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017](#) (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(2)(c)** (with Sch. 6 paras. 2(2), 3(3))
- F9** Words in Sch. 3 para. 1 inserted (S.) (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017](#) (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(3)(c)** (with Sch. 6 paras. 2(2), 3(3))
- F10** Words in Sch. 3 para. 1 omitted (E.W.) (5.12.2017) by virtue of [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017](#) (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(2)(d)** (with Sch. 6 paras. 2(2), 3(3))
 Words in Sch. 3 para. 1 omitted (S.) (5.12.2017) by virtue of [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017](#) (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(3)(d)** (with Sch. 6 paras. 2(2), 3(3))
- F11** Words in Sch. 3 para. 1 substituted (E.W.) (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017](#) (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(2)(e)** (with Sch. 6 paras. 2(2), 3(3))
 Words in Sch. 3 para. 1 substituted (S.) (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017](#) (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(3)(e)** (with Sch. 6 paras. 2(2), 3(3))
- F12** Words in Sch. 3 para. 1 inserted (E.W.) (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017](#) (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(2)(f)** (with Sch. 6 paras. 2(2), 3(3))
 Words in Sch. 3 para. 1 inserted (S.) (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017](#) (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(3)(f)** (with Sch. 6 paras. 2(2), 3(3))

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- F13** Words in Sch. 3 para. 1 inserted (E.W.) (5.12.2017) by The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(2)(f)** (with Sch. 6 paras. 2(2), 3(3))
- F14** Words in Sch. 3 para. 1 inserted (S.) (5.12.2017) by The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(3)(f)** (with Sch. 6 paras. 2(2), 3(3))
- F15** Words in Sch. 3 para. 1 inserted (E.W.) (5.12.2017) by The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(2)(g)** (with Sch. 6 paras. 2(2), 3(3))
Words in Sch. 3 para. 1 inserted (S.) (5.12.2017) by The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(3)(g)** (with Sch. 6 paras. 2(2), 3(3))
- F16** Words in Sch. 3 para. 1 substituted (E.W.) (5.12.2017) by The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(2)(h)** (with Sch. 6 paras. 2(2), 3(3))
Words in Sch. 3 para. 1 substituted (S.) (5.12.2017) by The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(3)(h)** (with Sch. 6 paras. 2(2), 3(3))
- F17** Words in Sch. 3 para. 1 substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 para. 3**
- F18** Words in Sch. 3 para. 1 substituted (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 7 para. 1(a)** (with s. 55(2)); S.S.I. 2004/495, art. 2 (para (b) had previously been repealed for E.W. (30.1.2001 for E., 1.5.2001 for W.) by 2000 c. 37, s. 102, Sch. 16 Pt. III; S.I. 2001/114, art. 2(1)(d)(ii); S.I. 2001/1410, art. 2(p))
- F19** Words in Sch. 3 para. 1 repealed (S.) (14.5.2007) by Transport and Works (Scotland) Act 2007 (asp 8), **ss. 25(5)(a)(ii)**, 30(3) (with s. 30(5))
- F20** Words in Sch. 3 para. 1 substituted (E.W.) (1.4.2001) by 2000 c. 37, s. 93, **Sch. 15 para. 4** (with s. 84(4)-(6)); S.I. 2001/114, **art. 2(2)(e)**
- F21** Words in Sch. 3 para. 1 substituted (E.W.) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), reg. 1(2), **Sch. 6 para. 1** (with reg. 125)
- F22** Words in Sch. 3 para. 1 substituted (E.W.) (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), **Sch. 6 para. 1**
- F23** Words in Sch. 3 para. 1 repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 7 para. 1(b)** (with s. 55(2)); S.S.I. 2004/495, art. 2
- F24** Words in Sch. 3 para. 1 substituted (S.) (17.12.2010) by The National Scenic Areas (Consequential Modifications) (Scotland) Order 2010 (S.S.I. 2010/460), **art. 2**
- F25** Words in Sch. 3 para. 1 added (S.) (14.5.2007) by virtue of Transport and Works (Scotland) Act 2007 (asp 8), **ss. 25(5)(a)(iii)**, 30(3) (with s. 30(5))
- F26** Words in Sch. 3 para. 1 inserted (E.W.) (5.12.2017) by The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(2)(i)** (with Sch. 6 paras. 2(2), 3(3))
Words in Sch. 3 para. 1 inserted (S.) (5.12.2017) by The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 (S.I. 2017/1070), reg. 1(1), **Sch. 1 para. 8(3)(i)** (with Sch. 6 paras. 2(2), 3(3))

[^{F27}1A. In this Part of this Schedule, references to provisions of the EIA Directive are to be read as if—

- (a) in Annex III—
- (i) in point 2(c)(v) the reference to Member States were a reference to the Secretary of State;
- (ii) in point 2(c)(vi) the reference to Union legislation were a reference to retained EU law;
- (b) in Annex IV—

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(i) in the text following point 5(g) the words “established at Union or Member State level” were omitted;

(ii) in point 8 the following were substituted for the second sentence—

“Relevant information available and obtained through risk assessments pursuant to [^{F28}assimilated] law, such as any law of any part of the United Kingdom which implemented [Directive 2012/18/EU](#) of the European Parliament and of the Council or Council Directive 2009/71/Euratom, or relevant assessments undertaken under other domestic legislation may be used for this purpose provided that the requirements of any law of any part of the United Kingdom which implemented this Directive are met.”]

Textual Amendments

F27 Sch. 3 para. 1A inserted (31.12.2020) by [The Harbours and Highways \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/460\)](#), regs. 1, **2(4)(c)**

F28 Word in Sch. 3 para. 1A(b)(ii) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), **Sch. para. 3(2)(b)**

2 A project shall be treated for the purposes of this Part as not [^{F29}of a type specified in] Annex II to the Directive unless—

- (a) the area of the works comprised in the project exceeds 1 hectare,
- (b) any part of the works is to be carried out in a sensitive area, or
- (c) the Secretary of State determines that the project shall be treated for the purposes of this Part as [^{F29}of a type specified in] that Annex.

Textual Amendments

F29 Words in Sch. 3 para. 2 substituted (31.12.2020) by [The Harbours and Highways \(Environmental Impact Assessment\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/460\)](#), regs. 1, **2(4)(d)**

[^{F30}2A.(1) For purposes of this Part, the effects of a project on the environment include—

- (a) any effects on the environment which arise (directly or indirectly) from the operational phase of the project;
- (b) any expected effects on the environment which derive (directly or indirectly) from the vulnerability of the project to risks of major accidents or disasters.

(2) References to the adverse, likely or significant effects of a project on the environment are to be read accordingly]]

Textual Amendments

F30 Sch. 3 para. 2A inserted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(4)** (with Sch. 6 paras. 2(2), 3(3))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act modified by [2023 c. 8 s. 9\(7\)](#)