

Changes to legislation: Harbours Act 1964, Cross Heading: Pre-application procedure is up to date with all changes known to be in force on or before 13 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

Pre-application procedure

- [^{F23} (1) A person may not make an application for a harbour revision order which, directly or indirectly, authorises a project unless—
- (a) the proposed applicant has given the Secretary of State notice of the proposed applicant's intention to make the application, and
 - (b) the Secretary of State has responded under paragraph 5(2) or 6(2)(a).
- (2) If the project is likely to [^{F3}be of a type specified in] Annex I or Annex II to the EIA Directive, the notice given under sub-paragraph (1)(a) —
- (a) must include the information described in Annex II.A to the EIA Directive (information to be provided on projects listed in Annex II) taking into account the results of any relevant environmental assessment which are reasonably available to the proposed applicant, and
 - (b) may include a description of any feature of the project or measure envisaged to avoid or prevent what otherwise might be significant adverse effects of the project on the environment.
- (3) This paragraph does not apply if the Secretary of State gives a direction in respect of the project under paragraph 20A, 20B or 20C (exemptions).]

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Textual Amendments

- F2** Sch. 3 para. 3 substituted (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(5)** (with Sch. 6 paras. 2, 3(3))
- F3** Words in Sch. 3 para. 3(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)(e)**

- [^{F4} (1) Where the Secretary of State is notified of a proposed application under paragraph 3(1)(a), the Secretary of State must decide whether it relates to a project which requires an environmental impact assessment.
- (2) A project requires an environmental impact assessment if—
- (a) it [^{F5}is of a type specified in] Annex I to the EIA Directive, or
 - (b) it [^{F5}is of a type specified in] Annex II to the EIA Directive and, having regard to the selection criteria, is a relevant project.
- (3) For the purposes of sub-paragraph (1), the Secretary of State must take into account the results of any relevant environmental assessment which are reasonably available to the Secretary of State.
- (4) In this Part of this Schedule, “screening decision” means a decision under sub-paragraph (1) of this paragraph.]

Textual Amendments

- F4** Sch. 3 paras. 4-4C substituted for Sch. 3 para. 4 (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(6)** (with Sch. 6 paras. 2, 3(2)3(3))
- F5** Words in Sch. 3 para. 4(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)(f)**

- [^{F4A} (1) The Secretary of State may direct a person to provide the Secretary of State with such further information as the Secretary of State requires for the purpose of making a screening decision.
- (2) A direction under sub-paragraph (1) must be given before the end of the period of 90 days beginning with the day on which the Secretary of State is notified of the proposed application under paragraph 3(1)(a).
- (3) A direction under sub-paragraph (1) must be in writing and must—
- (a) specify the further information to be provided by the proposed applicant, and
 - (b) state that, in accordance with paragraph 4B, the period within which the Secretary of State is required to make the screening decision will begin with the day on which all of the specified information has been provided by the proposed applicant.

Textual Amendments

- F4** Sch. 3 paras. 4-4C substituted for Sch. 3 para. 4 (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(6)** (with Sch. 6 paras. 2, 3(2)3(3))

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- 4B. (1) The Secretary of State must make a screening decision in respect of a proposed application—
- (a) as soon as possible after the day on which the Secretary of State is notified of the proposed application under paragraph 3(1)(a), and
 - (b) in any event within the period of 90 days beginning with that day.
- (2) But if the Secretary of State gives a direction under paragraph 4A(1) to the proposed applicant, the screening decision in respect of the proposed application is to be made—
- (a) as soon as possible after the day on which all of the information specified in the direction has been provided by the proposed applicant, and
 - (b) in any event within the period of 90 days beginning with that day.
- (3) This paragraph is subject to paragraph 4C.

Textual Amendments

- F4** Sch. 3 paras. 4-4C substituted for Sch. 3 para. 4 (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(6)** (with Sch. 6 paras. 2, 3(2)3(3))

- 4C. (1) The Secretary of State, if 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 the project), may extend the period specified in paragraph 4B(1)(b) or (2)(b).
- (2) If the Secretary of States extends the relevant period, the Secretary of State must inform the proposed applicant, in writing, of—
- (a) the reasons for the extension, and
 - (b) the date by which the Secretary of State expects to make the screening decision.]

Textual Amendments

- F4** Sch. 3 paras. 4-4C substituted for Sch. 3 para. 4 (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(6)** (with Sch. 6 paras. 2, 3(2)3(3))

- [^{F65} (1) This paragraph applies if the Secretary of State decides that a proposed application relates to a project which does not require an environmental impact assessment.
- (2) The Secretary of State must inform the proposed applicant, in writing, of the decision and the reasons for it with reference to the selection criteria (where relevant).
- (3) The Secretary of State must also publish a notice of the decision which—
- (a) states the reasons for it with reference to the selection criteria (where relevant), and
 - (b) if provided by the proposed applicant in the notice under paragraph 3(1) (a) or in response to a direction given under paragraph 4A(1), includes a description of any feature of the project or measure envisaged to avoid or prevent what might otherwise be significant adverse effects of the project on the environment.]

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Textual Amendments

F6 Sch. 3 para. 5 substituted (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\(7\)](#) (with Sch. 6 paras. 2, 3(3))

- [^{F7}6 (1) This paragraph applies if the Secretary of State decides that the proposed application relates to a project which requires an environmental impact assessment.
- (2) The Secretary of State must—
- (a) inform the proposed applicant, in writing, of the decision and the reasons for it with reference to the selection criteria (where relevant),
 - (b) publish a notice of the decision which states the reasons for it with reference to the selection criteria (where relevant), and
 - (c) give the proposed applicant an opinion, in writing, about the scope and level of detail of the information which the proposed applicant will be required to supply in an environmental statement, if the application is made.
- (3) In giving an opinion under sub-paragraph (2)(c), the Secretary of State must have regard to the information provided by the proposed applicant including in particular any information about—
- (a) the specific characteristics of the project (including its location and technical capacity), and
 - (b) its likely impact on the environment.
- (4) Before giving the opinion the Secretary of State must consult such bodies with environmental responsibilities or local or regional competencies as the Secretary of State considers appropriate.]]

Textual Amendments

F7 Sch. 3 para. 6 substituted (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\(8\)](#) (with Sch. 6 paras. 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\(7\)](#)