

## SCHEDULE 2

### Amendments to the Highways Act 1980

#### 6. After section 105C insert—

#### **“Conclusion about environmental impact of a project for constructing or improving a highway**

**105CA.**—(1) Before deciding whether or not to proceed with a project for which notice of an environmental statement is published in accordance with section 105B, the project authority—

- (a) must consider the matters specified in subsection (2), and
- (b) following that consideration, must reach a reasoned conclusion about the significant effects of the proposed construction or improvement on the environment.

(2) The specified matters are—

- (a) the environmental statement,
- (b) any relevant opinion received by the project authority on the project or the statement,
- (c) where an EEA State indicates under section 105C that it wishes to participate in the procedure required by this Part of this Act, any relevant EEA opinion received by the project authority on the project or the statement,
- (d) any features of the project, or measures, envisaged to avoid, prevent or reduce, and if possible, offset any likely significant adverse effects of the project on the environment, and
- (e) any other information of a description specified in Annex IV which is directly relevant to the conclusion to be reached on the environmental impact of the project.

(3) For the purposes of subsection (2)(b), an opinion on a project or an environmental statement is a relevant opinion if—

- (a) it is expressed in writing by a consultation body or any other person, and
- (b) it is received by the project authority within the period specified for the purpose by the authority.

(4) For the purposes of subsection (2)(c), an opinion on a project or an environmental statement is a relevant EEA opinion if—

- (a) it is expressed in writing by—
  - (i) the EEA State,
  - (ii) a member of the public in the EEA State, or
  - (iii) an authority having environmental responsibilities designated by the EEA State to be consulted about the project under Article 6(1) of the Directive, and
- (b) it is received by the project authority within the period specified for the purpose by the project authority.

(5) The period specified for the purposes of subsection (3)(b) or subsection (4)(b) must not be less than 42 days beginning with the day on which the notice of the environmental statement is published in accordance with section 105B(2)(b).

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(6) The project authority must obtain such expert advice as appears to the authority to be necessary for the purposes of considering the environmental statement.

### **Decision about whether or not to proceed with a project subject to an environmental impact assessment**

**105CB.**—(1) When deciding whether or not to proceed with a project for which notice of an environmental statement is published in accordance with section 105B, the project authority—

- (a) must take into account its reasoned conclusion under section 105CA(1)(b), and
- (b) must consider whether to make provision for monitoring significant adverse effects of the construction or the improvement on the environment.

(2) The project authority may decide to proceed with the project only if satisfied that the reasoned conclusion is up to date.

(3) The project authority may make provision for monitoring significant adverse effects on the environment 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 project, and
- (b) the significance of the effects of the project on the environment.

(4) If the project authority decides to proceed with the project, it must implement any relevant feature or other measure envisaged to avoid, prevent or reduce, and if possible, offset any significant adverse effects of the project on the environment.

(5) For the purposes of subsection (4) a feature of a project or other measure is relevant if it was taken into account by the project authority in reaching the reasoned conclusion required under section 105CA(1)(b).

### **Timing of conclusion and decision**

**105CC.** The project authority must—

- (a) reach the reasoned conclusion required by section 105CA(1)(b), and
- (b) decide whether or not to proceed with the relevant construction or improvement,

within a reasonable period of time (having regard to the nature and complexity of the project) beginning on the day on which the authority begins the consideration required by section 105CA(1)(a).

### **Publication of conclusion and decision**

**105CD.**—(1) When the project authority has decided whether or not to proceed with the construction or improvement subject to an environmental impact assessment, it must—

- (a) publish its reasoned conclusion under section 105CA(1)(b),
- (b) publish its decision and a decision statement, and
- (c) if an EEA State has been consulted in accordance with section 105C(4), inform the EEA State of the decision and give the EEA State a copy of the decision statement.

(2) A decision statement must—

- (a) confirm that the project authority has complied with the requirements of this Part of this Act,

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- (b) include a summary of the reasoned conclusion under section 105CA(1)(b),
- (c) include a summary of the decision and any conditions attached to the decision,
- (d) state the main reasons and considerations on which the decision is based, and
- (e) include a summary of the consultations carried out under this Part of this Act, the results of those consultations and how those consultations have been taken into account in the conclusion and decision,
- (f) where the authority's decision is to proceed with the project, describe the right under section 105D(1) to challenge the validity of the decision.”