

SCHEDULE 6

Transitional provisions and savings

PART 2

The 1980 Act

Existing projects for constructing or improving highways which are not screened before the commencement date

4.—(1) Despite the amendments made by paragraph 3 of Schedule 2, superseded sections 105A(2) and (3)(b) continue to apply on and after the commencement date for the purpose of determining whether an existing project is, or should be made, subject to an environmental impact assessment under Part 5A of the 1980 Act.

(2) A determination under superseded section 105(2) that an existing project does not fall within Annex I or Annex II is to be treated as a determination that the project does not fall within Annex I or Annex II to the EIA Directive.

(3) A determination under superseded section 105A(3)(b) that an existing project should not be subject to an environmental impact assessment is to be treated for the purposes of new Part 5A (other than section 105AB) as a determination under section 105A(1)(b) of the 1980 Act (as substituted by paragraph 3 of Schedule 2).

(4) The project authority must publish a notice of a determination under superseded section 105A(3)(b) that an existing project should not be subject to an environmental impact assessment—

- (a) in the London Gazette,
- (b) in at least one local newspaper circulating in the area in which the project for the construction or improvement is proposed to be situated, and
- (c) on a website maintained by or on behalf of the project authority.

(5) An existing project which the project authority determines—

- (a) under superseded section 105A(2), falls within Annex I, or
- (b) under superseded section 105A(3)(b), should be subject to an environmental impact assessment,

is to be treated for the purposes of new Part 5A as a project to which section 105B(1) of the 1980 Act (as substituted by paragraph 4 of Schedule 2) applies.

(6) In this paragraph—

“existing project” means a project for constructing or improving a highway which the project authority that is the highway authority for the highway—

- (a) is considering before the commencement date, but
- (b) in respect of which it had not made a determination under subsection (2), or subsections (2) and (3)(b), of section 105A of the 1980 Act before that date;

“project authority” means—

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

Status: This is the original version (as it was originally made).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

“superseded section 105A(2)” means subsection (2) of section 105A of the 1980 Act as it has effect immediately before the commencement date;

“superseded section 105A(3)(b)” means subsection (3)(b) of section 105A of the 1980 Act as it has effect immediately before the commencement date.

Exemptions for existing projects

5.—(1) Section 105AA of the 1980 Act (as inserted by paragraph 3 of Schedule 2) applies to an existing project as it applies to a new project.

(2) In this paragraph—

“existing project” has the meaning given in paragraph 4;

“new project” means a project for constructing or improving a highway which the project authority that is the highway authority for the highway begins to consider on or after the commencement date.

(3) Paragraph 4(4) does not apply to an existing project in respect of which a direction is given, or determination made, under section 105AA.

Projects for constructing or improving highways which are screened before the commencement date

6. The amendments made to the 1980 Act by Schedule 2 do not apply in relation to a project in respect of which notice of an environmental statement is published under section 105B(3) of the 1980 Act before the commencement date.