STATUTORY INSTRUMENTS

# 2017 No. 1070

# HARBOURS, DOCKS, PIERS AND FERRIES ENVIRONMENTAL PROTECTION HARBOURS, DOCKS, PIERS AND FERRIES, NORTHERN IRELAND ENVIRONMENTAL PROTECTION, NORTHERN IRELAND

## The Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017

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| *Made - - - -* | *6th November 2017* |
| *Laid before Parliament* | *13th November 2017* |
| *Coming into force - -* | *5th December 2017* |

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**), sections 8 and 9 of the Electronic Communications Act 2000(**2**) and section 105 of the Deregulation Act 2015(**3**).

The Secretary of State has been designated for the purposes of section 2(2) of the 1972 Act in relation to the environment(**4**).

The Secretary of State considers that the authorisation of the use of electronic communications by paragraph 7 of Schedule 1 to these Regulations is such that the extent (if any) to which records of things done for the purpose will be available will be no less satisfactory where use is made of electronic communications than in other cases.

(**1**) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).
(**2**) 2000 c. 7.
(**3**) 2015 c. 20.
(**4**) S.I. 2008/301.

### Citation, commencement and extent

**1.**—(1) These Regulations may be cited as the Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017 and come into force on 5th December 2017.

(2) Subject to paragraphs (3) to (6), these Regulations extend to England and Wales, Scotland and Northern Ireland.

(3) The amendments made by Schedules 1, 2 and 4 have the same extent as the provisions which they amend.

(4) The amendments made by Schedule 3 extend to England and Wales only.

(5) In Schedule 5—

(a) Part 1 extends to Northern Ireland only;

(b) Part 2 extends to Scotland only.

(6) Paragraphs 1 and 4 to 12 of Schedule 6 extend to England and Wales only.

### Interpretation

**2.** In these Regulations—

"the 1964 Act" means the Harbours Act 1964(**5**);

"the 1980 Act" means the Highways Act 1980(**6**);

"the 1992 Act" means the Transport and Works Act 1992(**7**);

"the 2006 Rules" means the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006(**8**);

"the commencement date" means the day on which these Regulations come into force.

### Amendments

**3.** The 1964 Act is amended in accordance with Schedule 1.

**4.** The 1980 Act is amended in accordance with Schedule 2.

**5.** The 1992 Act is amended in accordance with Schedule 3.

**6.** The 2006 Rules are amended in accordance with Schedule 4.

### Projects and works in Scotland or Northern Ireland: national defence exemption

**7.** Schedule 5 makes provision for the exemption of projects or works from the requirement for an environmental impact assessment under—

(a) the Roads (Northern Ireland) Order 1993;

(b) the Harbour Works (Environmental Impact Assessment) Regulations (Northern Ireland) 2003(**9**);

(c) the Transport and Works (Scotland) Act 2007 and the Transport and Works (Scotland) Act 2007 (Applications and Objections) Procedure Regulations 2007,

where the sole purpose of the works or projects is national defence.

(**5**) 1964 c. 40.
(**6**) 1980 c. 66.
(**7**) 1992 c. 42.
(**8**) S.I. 2006/1466.
(**9**) S.R. (N.I.) 2003/136.

**Transitional provisions**

**8.** Schedule 6 makes transitional provision in consequence of the amendments made by these Regulations.

Signed by authority of the Secretary of State

*Jesse Norman*
Parliamentary Under Secretary of State
Department for Transport

6th November 2017

## SCHEDULE 1

Regulation 3

### Amendments to the 1964 Act

**1.** The 1964 Act is amended as follows.

**2.** In section 17 (procedure for making harbour revision and empowerment orders etc.), in subsection (2C)(**10**), for "paragraph" substitute "paragraphs 20A and".

**3.** In section 17D (harbour closure orders: procedure)(**11**), in subsection (2)—

(a) for paragraph (a) substitute—

"(a) ignore paragraphs 3, 4A, 4B(2), 4C(2), 5(2), 6(2)(a) and (c), (3) and (4), 7, 8A, 9, 10(6) to (8), 13 and 14,";

(b) at the end of paragraph (d), omit "and";

(c) for paragraph (e), substitute—

"(e) paragraph 4B applies as if for sub-paragraph (1) there were substituted—

"(1) The Secretary of State must make a screening decision in respect of the proposed order—

(a) as soon as possible, and

(b) in any event within the period of 90 days beginning with the day on which the Secretary of State has all of the information needed to make the decision.",

(f) paragraph 8 applies if the Secretary of State decides that the order would relate to a project which requires an environment impact assessment, in which case—

(i) the Secretary of State, having consulted bodies with environmental responsibilities, must arrange for the preparation of an environmental statement by competent experts,

(ii) the environmental statement must include the information specified in sub-paragraphs (2)(b) and (3) (and may include other information),

(iii) the environmental statement must take into account the results of any relevant environmental assessment which are reasonably available to the Secretary of State, and

(iv) the environmental statement must include a statement setting out the relevant expertise or qualifications of the experts who prepared the environmental statement,

(g) where paragraph 8 applies, treat a reference to an environmental statement supplied under paragraph 8(1)(a) as a reference to the environment statement prepared on behalf of the Secretary of State, and

(h) paragraph 10ZA applies if the Secretary of State decides that the order would relate to a project which requires an environmental impact assessment, in which case, treat a reference to the notice received under paragraph 10(6) as a reference to the notice published under paragraph 10(1)."

**4.** In section 42A (power to make orders delegating functions)(**12**), after subsection (7), insert—

(**10**) Section 17(2C) was inserted by S.I. 1999/3445.
(**11**) Section 17D was inserted by section 6(1) of the Marine Navigation Act 2013 (c. 23).
(**12**) Section 42A was inserted in relation to England and Wales by paragraph 3(1) of Schedule 21 to the Marine and Coastal Access Act 2009 (c. 23).

"(7A) Subsection (7) does not apply to a reference in paragraph 20A of Schedule 3 to the Secretary of State or the Welsh Ministers."

**5.**—(1) Section 44 (limitation of right to challenge harbour revision orders etc in legal proceedings)(**13**), as it applies in relation to England and Wales, is amended as follows.

(2) In subsection (6), for "Article 10a of the Directive" substitute "Article 11(1)(a) of the EIA Directive".

(3) In subsection (7), for "the Directive" substitute "the EIA Directive".

(4) In subsection (8), in paragraphs (a) and (c), for "the Directive" substitute "the EIA Directive".

**6.**—(1) Section 44(**14**), as it applies in relation to Scotland, is amended as follows.

(2) In subsection (6)—

(a) in the opening words, for "the Directive" substitute "the EIA Directive";

(b) in paragraphs (a) and (b), for "Article 10a" substitute "Article 11(1)(a)".

(3) In subsection (7), in paragraphs (a) and (b), for "the Directive" substitute "the EIA Directive".

(4) In subsection (8), for "the Directive" substitute "the EIA Directive".

**7.**—(1) Section 48 (service of documents) is amended as follows.

(2) After subsection (1) insert—

"(1A) Any such document may also be given to or served on a person (the "recipient") by means of an electronic communication but only if—

(a) the recipient has given a written statement agreeing to accept service of the document by means of an electronic communication,

(b) the statement has not been withdrawn, and

(c) the document was transmitted in a specified electronic form to a specified electronic address.

(1B) For the purposes of subsection (1A)(c) "specified" means specified by the recipient in a written statement given for the purposes of paragraph (a) of that subsection.

(1C) A document given or served on a recipient in accordance with subsection (1A) must be in a form sufficiently permanent to be used for subsequent reference.

(1D) Where a document is given to or served on a recipient in accordance with subsection (1A), the document is deemed, unless the contrary is proved, to have been given to or served on the recipient at the time at which the electronic communication is transmitted.

(1E) But if the transmission is made outside the recipient's normal business hours, the document is to be taken to have been given to or served on the recipient on the next working day.

(1F) A statement under subsection (1A) may be withdrawn by giving a written notice to the person to whom the statement was made.

(1G) A withdrawal under subsection (1F) takes effect on the later of—

(a) the date specified by the person in the notice, and

(b) the date which is fourteen days after the date on which the notice is given."

(3) For subsection (2), substitute—

(**13**) Section 44(6) to (8) was inserted in relation to England and Wales by S.I. 2009/269.
(**14**) Section 44(6) to (8) was inserted in relation to Scotland by the Transport and Works (Scotland) Act 2007 (asp 8).