

1988 No. 1336

HARBOURS, DOCKS, PIERS AND FERRIES

The Harbour Works (Assessment of Environmental Effects) Regulations 1988

Made - - - - 27th July 1988

Coming into force - 3rd August 1988

The Secretary of State for Transport and the Minister of Agriculture, Fisheries and Food as respects England and the Secretary of State for Wales as respects Wales, being Ministers designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment, in exercise of the powers conferred by that section hereby make the following Regulations:-

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Harbour Works (Assessment of Environmental Effects) Regulations 1988.

(2) These Regulations shall come into force on the seventh day after the day on which they are made.

(3) These Regulations shall not extend to Scotland.

Amendment of the Harbours Act 1964

2. The following definition shall be inserted in section 57(1) of the Harbours Act 1964(c) (at the appropriate place in alphabetical order)-

““environmental assessment” means an assessment in accordance with Council Directive No. 85/337/EEC;”.

3. Part I of Schedule 3 to that Act shall be amended as follows.

4. The following paragraph shall be inserted after paragraph 1-

“1A.—(1) Where an application for a harbour revision order relating to a harbour in England or Wales is made after the coming into force of this paragraph, the Secretary of State shall determine whether or not it is made in relation to a project which falls within Annex I or Annex II to Council Directive No. 85/337/EEC on the assessment of the effects of certain public and private projects on the environment.

(a) S.I. 1988/785.

(b) 1972 c.68.

(c) 1964 c.40; Schedule 3 was amended by the Transport Act 1981 (c.56), sections 15(2), 18(1) and 40(1), Schedule 5, paragraph 14(1) and (2) and Schedule 6, paragraph 4(1) to (4) and (8).

(2) If he determines that it is made in relation to a project which falls within Annex I, or a project which falls within Annex II and whose characteristics require that it should be made subject to an environmental assessment, he shall direct the applicant to supply him in such form as he may specify with the information referred to in Annex III to the Directive to the extent that he considers—

- (a) that it is relevant to any stage of the procedure set out in this Part and to the specific characteristics of the project to which the application relates and of the environmental features likely to be affected by it; and
- (b) that (having regard in particular to current knowledge and methods of assessment) the applicant may reasonably be required to gather that information,

and including at least—

- (i) a description of the project comprising information on the site, design and size of the project;
- (ii) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
- (iii) the data required to identify and assess the main effects which the project is likely to have on the environment;
- (iv) a non-technical summary of the information mentioned in paragraphs (i) to (iii) above.”

5. In paragraph 3—

(a) after the word “compliance” there shall be inserted the words “with the requirements of paragraph 1A above if they are applicable,”; and

(b) in sub-paragraph (a)—

(i) after the words “of the order” there shall be inserted the words “and whether information has been supplied under paragraph 1A above and”;

and

(ii) after the words “a copy of the draft of the proposed order” there shall be inserted the words “, a copy of any information supplied under paragraph 1A above”.

6. The following paragraph shall be inserted after paragraph 3—

“3A. It shall be the duty of the Secretary of State to furnish such bodies appearing to him to have environmental responsibilities as he thinks fit with any information supplied under paragraph 1A above and to consult such bodies.”.

7. In paragraph 4(5), after the word “withdrawn” there shall be inserted the words “, any information supplied under paragraph 1A above”.

8. The following paragraph shall be inserted after paragraph 4—

“4ZA. In any case where the Secretary of State has determined as mentioned in paragraph 1A(2) above, he shall publish in such manner as he thinks fit his decision whether or not to make an order.”.

19th July 1988

Paul Channon
Secretary of State for Transport

20th July 1988

John MacGregor
Minister of Agriculture, Fisheries and Food

27th July 1988

Peter Walker
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement for England and Wales Council Directive 85/337/EEC of the 27th June 1985 (OJ No. L175, 5.7.85, p.40) on the assessment of the effects of certain public and private projects on the environment, in respect of the procedure for making harbour revision orders and harbour empowerment orders relating to harbour works to which the Directive applies.

The Regulations amend section 57 of and Part I of Schedule 3 to the Harbours Act 1964 so as to require the Secretary of State to determine when an application for a harbour revision order or a harbour empowerment order is made in relation to a harbour in England or Wales whether the application relates to a project to which the Directive applies. If the Secretary of State determines in any case that the Directive applies and that an environmental assessment is needed, he is to require the applicant, to the extent that he considers it relevant and reasonable, to supply in such form as he may specify the information referred to in Annex III to the Directive.

Provision is also made for the publication of information so supplied, for it to be furnished to bodies with environmental responsibilities and for consultation with such bodies. The information supplied is to be considered by the Secretary of State in reaching his decision. The Secretary of State must publish his decision on an application for a harbour revision order or a harbour empowerment order when he has determined that it relates to a project needing to be subject to an environmental assessment in accordance with the Directive.