



Highways Act 1980

1980 CHAPTER 66

[^{F1}PART VA

ENVIRONMENTAL IMPACT ASSESSMENTS

Textual Amendments

F1 Pt. VA substituted (13.3.1999) by [S.I. 1999/369](#), [reg.2](#)

105A Environmental impact assessments.

(1) In this Part—

^{F2}

“Annex” means an Annex to the Directive; ^{F3} . . .

[^{F4}“the Directive” means Council Directive No. [85/337/EEC](#)^{M1} on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive No. [97/11/EC](#)^{M2} and Directive No. [2003/35/EC](#)^{M3} of the European Parliament and Council;

“member of the public” includes any body of persons corporate or unincorporate;

“public authority” means any authority or other body on which functions are conferred by or under an enactment, including an enactment comprised in, or an instrument made under, an Act of the Scottish Parliament; and]

“relevant project” means a project for constructing or improving a highway where the area of the completed works together with any area occupied during the period of construction or improvement by requisite apparatus, equipment, machinery, materials, plant, spoil heaps or other such facilities exceeds 1 hectare or where any such area is situated in whole or in part in a sensitive area.

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- (2) If the Secretary of State is considering a project for constructing or improving a highway for which he is the highway authority he must, before details of the project are published, determine whether or not it falls within Annex I or II.
- (3) If the Secretary of State—
- (a) considers that the project falls within Annex I, or
 - (b) considers that it is a relevant project falling within Annex II and determines, having regard to the selection criteria contained in Annex III, that it should be made subject to an environmental impact assessment in accordance with the Directive,
- he must, not later than the date when details of the project are published, [^{F5}prepare an environmental statement and publish notice of it in accordance with subsections (3), (3A) and (7) of section 105B] .
- (4) To the extent to which the Secretary of State considers—
- (a) that it is relevant to the specific characteristics of the project and of the environmental features likely to be affected by it, and
 - (b) that the information may reasonably be gathered (having regard among other matters to current knowledge and methods of assessment),
- the environmental statement must contain the information referred to in Annex IV.
- (5) That information must include at least—
- (a) a description of the project (comprising information on the site, design and size of the project);
 - (b) a description of the measures envisaged in order to avoid, reduce, and, if possible, remedy significant adverse effects;
 - (c) the data required to identify and assess the main effects which the project is likely to have on the environment;
 - (d) an outline of the main alternatives studied by the Secretary of State and an indication of the main reasons for his choice (taking into account the environmental effects);
 - (e) a non-technical summary of the information mentioned in paragraphs (a) to (d).
- (6) “Sensitive area” means any of the following:—
- [^{F6}(a) a site of special scientific interest (within the meaning of the Wildlife and Countryside Act 1981);]
 - (b) land adjacent to such an area that is notified to the local planning authority in accordance with paragraph (u)(ii) in the table in article 10 of the Town and Country Planning (General Development Procedure) Order 1995 ^{M4};
 - ^{F7}(c)
 - (d) a National Park within the meaning of the ^{M5}National Parks and Access to the Countryside Act 1949 ^{M6};
 - [^{F8}(e) an area of outstanding beauty designated as such under section 82 of the Countryside and Rights of Way Act 2000.]
 - (f) the Broads as defined in the ^{M7}Norfolk and Suffolk Broads Act 1988 ^{M8};
 - (g) a property appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage. ^{M9};

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- (h) a scheduled monument within the meaning of the ^{M10}Ancient Monuments and Archaeological Areas Act 1979 ^{M11};
- (i) a European site within the meaning of regulation 10 of the Conservation (Natural Habitats etc.) Regulations 1994 ^{M12}.

Textual Amendments

- F2** S. 105A(1): definition of "the Directive" omitted (26.4.2007) by virtue of [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), **reg. 2(2)(a)** (with reg. 7)
- F3** Word in s. 105A(1) omitted (26.4.2007) by virtue of [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), **reg. 2(2)(b)** (with reg. 7)
- F4** S. 105A(1): definitions of "the Directive", "member of the public" and "public authority" inserted (26.4.2007) by [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), **reg. 2(2)(b)** (with reg. 7)
- F5** Words in s. 105A(3) substituted (26.4.2007) by [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), **reg. 2(3)** (with reg. 7)
- F6** S. 105A(6)(a) substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 Pt. II para. 5**
- F7** S. 105A(6)(c) repealed (30.1.2001) by 2000 c. 37, ss. 102, 103(2), **Sch. 16 Pt. III**
- F8** S. 105A(6)(e) substituted (1.4.2001 for E. and 1.5.2001 for W.) by 2000 c. 37, s. 93, **Sch. 15 Pt. I para. 5** (with s. 84(4)-(6)); S.I. 2001/114, **art. 2(2)(e)**; S.I. 2001/1410, **art. 2(g)**

Marginal Citations

- M1** OJ No L 175, 5.7.85, p 40.
- M2** OJ No L 73, 14.3.97, p 5.
- M3** OJ No L 156, 25.6.03, p 17.
- M4** [S.I. 1995/419](#)
- M5** 1949 c. 97.
- M6** 1949 c. 97.
- M7** 1988 c. 4.
- M8** 1988 (c. 4).
- M9** See Command Paper 9424.
- M10** 1979 c. 46.
- M11** 1979 c. 46. See the definition in section 1(11).
- M12** [S.I. 1994/2716](#).

^{F9}105B Procedure

- (1) The Secretary of State must ensure that any determination made by him as to whether or not a relevant project should be made subject to an environmental impact assessment in accordance with the Directive is published.
- (2) ^{F10}
- (3) [^{F11}Notice of the] environmental statement must be published so as to ensure that members of the public who are likely to be concerned are given a reasonable opportunity to express their opinion before the Secretary of State decides whether to proceed with the construction or improvement to which the assessment relates.

[The notice must state—

- ^{F12}(3A) (a) that the Secretary of State, as the relevant highway authority, is considering implementing the project;
- (b) the proposed location and nature of the project;

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- (c) that the project is subject to the environmental impact assessment procedure required by this Part of this Act and, where relevant, that section 105C applies;
 - (d) that a copy of the environmental statement may be inspected at an address in the area in which the project is proposed to be situated during the period specified under paragraph (i);
 - (e) the times at which the copy of the environmental statement may be so inspected;
 - (f) an address from which copies of the environmental statement may be obtained and from which further information about the project may be requested during the period specified under paragraph (i);
 - (g) if a charge is to be made for a copy of the environmental statement, the amount of the charge;
 - (h) if the Secretary of State uses a website for the publication of information about projects that are subject to the procedure required by this Part of this Act, that a copy of the environmental statement may be inspected on the website during the period specified under paragraph (i);
 - (i) that any person wishing to make any representations about the project and the environmental statement may do so in writing to the Secretary of State at a specified address within a specified period, being not less than 6 weeks from the date of publication of the notice and
 - (j) that the Secretary of State will take into consideration any representations so made before deciding whether or not to proceed with the project with or without modifications.
- (3B) The Secretary of State shall ensure that during the period specified under subsection (3A) (i)—
- (a) copies of the environmental statement are available for inspection by any person free of charge at all reasonable hours at the address specified under subsection (3A) (d);
 - (b) copies of the environmental statement are available to be obtained by any person from the address specified under subsection (3A) (f); and
 - (c) where under subsection (3A) (h) the notice states the address of a website, that a copy of the environmental statement is available for inspection by any person on that website.
- (3C) A reasonable charge reflecting the costs of printing, copying and distribution may be made by the Secretary of State for the supply of a copy of the environmental statement—
- (a) to a person other than a consultation body, or
 - (b) to a consultation body to which one copy has already been supplied free of charge.]
- (4) The Secretary of State must ensure that the consultation bodies are given an opportunity to express an opinion on the^{F13} . . . project and the environmental statement before he decides whether to proceed with the construction or improvement to which the assessment relates.
- (5) Before deciding whether to proceed with the construction or improvement in relation to which an environmental impact assessment has been made, the Secretary of State must take into consideration—
- (a) the environmental statement; ^{F14} . . .
 - ^{F15}(b) any opinion on that statement or the project which is expressed in writing by—

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- (i) any of the consultation bodies; or
 - (ii) any other person;
 - and is received by the Secretary of State within any period specified for the purpose by him; and
 - (c) where section 105C applies, and the EEA State has indicated in accordance with subsection (4) of that section that it wishes to participate in the procedure required by this Part of this Act, any opinion on that statement or the project which 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 is received by the Secretary of State within any period specified for the purpose by him.]
- ^{F16}(5A) [Where in order to proceed with the construction or improvement in relation to which an environmental statement has been made it is necessary for the Secretary of State to make—
 - (a) an order or scheme to which Schedule 1 to this Act applies; or
 - (b) a compulsory purchase order in the exercise of highway land acquisition powers;the Secretary of State shall, so far as it is practicable to do so, take the steps required of him by this Part of this Act concurrently with the corresponding steps required of him by Schedule 1 to this Act or, as the case may be, the Acquisition of Land Act 1981^{M13} in connection with the making of the related instruments.]
- (6) When the Secretary of State has decided whether to proceed with the construction or improvement for which an environmental impact assessment has been made, he must publish his decision together with a statement confirming that he has complied with subsection (5) [^{F17}, and describing the right under section 105D (1) to challenge the validity of the decision,] and must make available to the public documents containing—
 - (a) the content of the decision and any conditions attached thereto;
 - (b) the main reasons and considerations on which the decision is based; ^{F18} . . .
 - (c) where his decision is to proceed with the construction or improvement, a description of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the project. [^{F19}and]
 - ^{F20}(d) [information about the consultation carried out in compliance with this section and section 105C, the representations received on consultation, and any changes made as a result of those representations.]
- (7) Publication by the Secretary of State in accordance with subsections (1), (3) and (6) [^{F21} shall be
 - (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 of the highway is proposed to be situated; and
 - (c) if the Secretary of State uses a website for the publication of information about projects that are subject to the procedure required by this Part of this Act, on that website.]

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- [^{F22}(8) In this section “the consultation bodies” means—
- (a) any principal council as defined in subsection (1) of section 270 of the Local Government Act 1972 ^{M14} for the area where the land is situated;
 - (b) where the land is situated in England—
 - (i) English Heritage and Natural England; and
 - (ii) the Countryside Council for Wales and the National Assembly for Wales where, in the opinion of the Secretary of State, the land is sufficiently near to Wales to be of interest to them;
 - (c) where the land is situated in Wales—
 - (i) the Countryside Council for Wales; and
 - (ii) any organisation referred to in paragraph (b) (i) where, in the opinion of the National Assembly for Wales, the land is sufficiently near to England to be of interest to the organisation;
 - (d) the Environment Agency; and
 - (e) any other public authority which has environmental responsibilities and which the Secretary of State or the National Assembly for Wales considers to be likely to have an interest in the project.]

Textual Amendments

- F9** Pt. VA substituted (13.3.1999) by [S.I. 1999/369](#), [reg. 2](#)
- F10** S. 105B(2) omitted (26.4.2007) by virtue of [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 3\(2\)](#) (with [reg. 7](#))
- F11** Words in s. 105B(3) substituted (26.4.2007) by [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 3\(3\)](#) (with [reg. 7](#))
- F12** S. 105B(3A)-(3C) inserted (26.4.2007) by [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 3\(4\)](#) (with [reg. 7](#))
- F13** Words in s. 105B(4) omitted (26.4.2007) by virtue of [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 3\(5\)](#) (with [reg. 7](#))
- F14** Word in s. 105B(5) omitted (26.4.2007) by virtue of [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 3\(6\)](#) (with [reg. 7](#))
- F15** S. 105B(5)(b)(c) substituted (26.4.2007) for s. 105B(5)(b) by [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 3\(6\)](#) (with [reg. 7](#))
- F16** S. 105B(5A) inserted (26.4.2007) by [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 3\(7\)](#) (with [reg. 7](#))
- F17** Words in s. 105B(6) inserted (26.4.2007) by [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 3\(8\)\(a\)](#) (with [reg. 7](#))
- F18** Word in s. 105B(6)(b) omitted (26.4.2007) by virtue of [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 3\(8\)\(b\)](#) (with [reg. 7](#))
- F19** Word in s. 105B(6)(c) inserted (26.4.2007) by [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 3\(8\)\(c\)](#) (with [reg. 7](#))
- F20** S. 105B(6)(d) inserted (26.4.2007) by [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 3\(8\)\(d\)](#) (with [reg. 7](#))
- F21** Words in s. 105B(7) inserted (26.4.2007) by [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 3\(9\)](#) (with [reg. 7](#))
- F22** S. 105B(8) substituted (26.4.2007) by [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 3\(10\)](#) (with [reg. 7](#))

Marginal Citations

- M13** 1981 c. 67. This Act was amended by the [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#).

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M14 1972 c. 70.

105C Other [F²³EEA] States.

- (1) This section applies if—
 - (a) it appears to the Secretary of State that a project to which section 105A(3) applies is likely to have a significant effect on the environment in another [F²⁴EEA State] ; or
 - (b) [F²⁵an EEA State] the environment of which is likely to be significantly affected by such a project asks the Secretary of State for information about it.
- (2) The Secretary of State must give the [F²⁴EEA State]—
 - (a) a description of the project, together with any information available to him which suggests that it may have a significant effect on the environment in the [F²⁴EEA State] ;
 - (b) any information which he has on the nature of the decision which may be taken on the project;
 - [F²⁶(c) such information about the procedure required by this Part of this Act as he considers appropriate; and]
 - (d) a reasonable period within which to indicate whether it wishes to participate in that procedure.
- (3) Subsection (2)(a) and (b) must be complied with no later than the date of publication of the determination referred to in Section 105B(1).
- (4) If the [F²⁴EEA State] indicates that it wishes to participate [F²⁷in the procedure required by this Part of this Act] , the Secretary of State must give it—
 - (a) a copy of the environmental statement for the project (if he has not already done so); [F²⁸ . . .
 - [F²⁹(b) the information required by subsection (3A) of section 105B to be included in the notice under subsection (3) of that section; and
 - (c) any information about the procedure required by this Part of this Act which he considers it appropriate to give and which has not already been given to the EEA State.]
- (5) The Secretary of State, so far as he is concerned, must also—
 - (a) arrange for the information which he has given to the [F²⁴EEA State] to be made available, within a reasonable time, to—
 - (i) the authorities referred to in Article 6(1) of the Directive; and
 - (ii) members of the public in the [F²⁴EEA State] who are likely to be concerned; and
 - (b) ensure that those authorities and the public concerned are given a reasonable opportunity to give him their views before he decides whether to proceed with the project to which the environmental impact assessment relates.
- (6) The Secretary of State must, in accordance with Article 7(4) of the Directive—
 - (a) enter into consultations with the [F²⁴EEA State] concerned regarding, among other matters, the potential significant effects of the project on the environment of that [F²⁴EEA State] and the measures envisaged to reduce or eliminate those effects; and
 - (b) agree with that [F²⁴EEA State] a reasonable period for those consultations.

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[^{F30}(7) Where an EEA State has been consulted in accordance with subsection (4) the Secretary of State must, after deciding whether to proceed with the project to which the environmental statement relates, inform the EEA State of the decision and give it documents containing the matters referred to in section 105B (6).]

(8) ^{F31}

Textual Amendments

- F23** S. 105C: word in heading substituted (26.4.2007) by [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 4\(7\)](#) (with [reg. 7](#))
- F24** Words in s. 105C(1)-(6) substituted (26.4.2007) by [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 4\(2\)](#) (with [reg. 7](#))
- F25** Words in s. 105C(1)-(6) substituted (26.4.2007) by [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 4\(2\)](#) (with [reg. 7](#))
- F26** S. 105C(2)(c) substituted (26.4.2007) by [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 4\(3\)](#) (with [reg. 7](#))
- F27** Words in s. 105C(4) substituted (26.4.2007) by [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 4\(4\)\(a\)](#) (with [reg. 7](#))
- F28** Word in s. 105C(4)(a) omitted (26.4.2007) by virtue of [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 4\(4\)\(b\)](#) (with [reg. 7](#))
- F29** S. 105C(4)(b)(c) substituted (26.4.2007) for s. 105(4)(b) by [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 4\(4\)\(c\)](#) (with [reg. 7](#))
- F30** S. 105C(7) substituted (26.4.2007) by [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 4\(5\)](#) (with [reg. 7](#))
- F31** S. 105C(8) omitted (26.4.2007) by virtue of [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 4\(6\)](#) (with [reg. 7](#))

^{F32} 105D Validity of decisions

- (1) If a person aggrieved by a decision of the Secretary of State to proceed with the construction or improvement for which an environmental statement has been made desires to question the validity of the decision on the ground that—
- (a) it is not within the powers of this Act; or
 - (b) any requirement of this Part of this Act has not been complied with in relation to the decision;
- he may, within 6 weeks from the date on which the decision is first published under section 105B (6), make an application for the purpose to the High Court.
- (2) On any such application, the Court—
- (a) may by interim order suspend the operation of the decision, or any aspect of it, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
 - (b) if satisfied that the decision is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any requirement of this Part of this Act, may quash the decision or any aspect of it, either generally or in so far as it affects any property of the applicant.
- (3) Subject to subsection (2), a decision to which subsection (1) applies shall not be questioned in any legal proceedings whatever.]]

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Textual Amendments

F32 S. 105D inserted (26.4.2007) by [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 5](#) (with [reg. 7](#))

Status:

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