
STATUTORY INSTRUMENTS

1998 No. 2226

TRANSPORT AND WORKS

The Transport and Works (Assessment of Environmental Effects) Regulations 1998

<i>Made</i>	- - - -	<i>7th September 1998</i>
<i>Laid before Parliament</i>		<i>16th September 1998</i>
<i>Coming into force</i>	- -	<i>7th October 1998</i>

The Secretary of State for the Environment, Transport and the Regions, being a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ 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 makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Transport and Works (Assessment of Environmental Effects) Regulations 1998 and shall come into force on 7th October 1998.

(2) In these Regulations, “the Act” means the Transport and Works Act 1992⁽³⁾.

Provision of information and compliance with directions

2. In section 6 of the Act—

(a) after subsection (2) there shall be inserted—

“(2A) The power to make rules by virtue of subsection (2) above includes power to make provision for or in connection with requiring the Secretary of State in such cases or circumstances as may be prescribed in the rules to give to a person who proposes to make an application under this section an opinion on the information, if any, to be supplied in connection with that application.”.

(b) in subsection (3) (rules as to consultation before application is made may require compliance with directions by the Secretary of State) after “is made” there shall be inserted

(1) S.I.1988/785.
(2) 1972 c. 68.
(3) 1992 c. 42.

“, or as to the provision of information by a relevant authority to a person for the purposes of an application which the person proposes to make,”.

(c) after subsection (6) there shall be added—

“(7) In subsection (3) above “relevant authority” means any authority in relation to which Article 5(4) of Council Directive 85/337/EEC(4), as amended by Council Directive 97/11/EC(5), (authorities holding relevant information to make it available to the developer) applies, and includes—

- (a) the Countryside Commission;
- (b) the Countryside Council for Wales;
- (c) a local planning authority, within the meaning of Part I of the Town and Country Planning Act 1990(6);
- (d) the Minister of Agriculture, Fisheries and Food; and
- (e) the Nature Conservancy Council for England.”.

Cases in which other Member States are affected

3. After section 6 of the Act there shall be inserted—

“Cases where other Member States are affected

6A.—(1) The power conferred on the Secretary of State by subsection (2) of section 6 above to make rules includes power to make rules for a case where an application has been made under that section and another Member State is affected by the project in question, as to—

- (a) the provision by the Secretary of State to the Member State, or to authorities in, or the public of, the Member State, of documents and information relating to the application;
- (b) consultation by the Secretary of State with the Member State in connection with the application; or
- (c) notification by the Secretary of State to the Member State of the decision, or of matters relating to the decision, on the application.

(2) For the purposes of subsection (1) above, the cases where another Member State is affected by the project in question are those cases where—

- (a) it appears to the Secretary of State that the project would be likely to have significant effects on the environment in another Member State; or
- (b) that other Member State is likely to be significantly affected by the project and requests information relating to the application.”.

Publicity for making or refusal of orders

4. In section 14 of the Act(7) (publicity for the making or refusal of orders)—

(a) after subsection (3A) there shall be inserted—

(4) O.J. No. L175, 5.7.85, p.40.

(5) O.J. No. L73, 14.3.97, p.5.

(6) 1990 c. 8; Part I was amended by the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28), section 187(1) and Schedule 21, paragraph 29, the Local Government (Wales) Act 1994 (c. 19), sections 18 and 19, and the Environment Act 1995 (c. 25), sections 67 and 78 and Schedule 10, paragraph 32(2) and (3).

(7) Section 14 was amended by the Transport and Works (Assessment of Environmental Effects) Regulations 1995, S.I. 1995/1541.

- “(3AA) If, in a case where subsection (3A) has effect, an order is to be made, the notices under subsection (1) shall also contain a description of the main measures to avoid, reduce and, if possible, remedy the major adverse environmental effects.”, and
- (b) in subsection (3B), at paragraph (a), after “the environment,”, there shall be added—
- “as amended by Council Directive 97/11/EC,”,
- and in paragraph (b), after “that Directive” there shall be inserted—
- “as so amended”.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

Glenda Jackson
Parliamentary Under Secretary of State,
Department of the Environment, Transport and
the Regions

7th September 1998

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for amendments to the Transport and Works Act 1992 (“the Act”). The amendments implement, in the context of applications for orders under the Act, certain provisions in Council Directive [85/337/EEC](#) of 27 June 1985 (which relates to the assessment of the effects of certain public and private projects on the environment), as that Directive has been amended by Council Directive [97/11/EC](#) of 3 March 1997.

Section 6 of the Act is amended to enable Rules made under that section to implement provisions in the amended Directive requiring the Member State to ensure (1) that the competent authority gives an opinion on the scope of information to be supplied by the developer (Article 5(2) of the Directive) and (2) that authorities holding relevant information make that information available to the developer (Article 5(4)).

A new section 6A of the Act is provided to enable the making of rules for cases where another Member State is affected by a project (Article 7). The rules may provide as to documents and information to be provided to, and consultation with, the Member State and notification to it of the decision on the application for the order.

The provisions in the amended Directive which relate to the requirements for publicity following decisions giving consent for development (Article 9(1)) are implemented by an amendment to section 14 of the Act, providing for a description to be given of the main measures in respect of adverse environmental effects of the project.

These amendments to the Act, and Rules to be made under the authority of the amended sections, will complete the action needed to implement the Directive in the context of applications for orders under the Act.