

## SCHEDULE 6

Regulation 8

### Transitional provisions and savings

## PART 1

### The 1964 Act

#### **Orders made under section 42A of the 1964 Act**

1. Section 42A of the 1964 Act as amended by paragraph 4 of Schedule 1 applies to orders made under that section before the commencement date as it applies to orders made under that section on or after that date.

#### **Applications for harbour revision orders, harbour empowerment orders or closure orders**

2.—(1) The amendments made by Schedule 1 to paragraphs 3 to 6(1)(a) of Schedule 3 to the 1964 Act do not apply in relation to a proposed application in respect of which notice is given under paragraph 3(a) of Schedule 3 to the 1964 Act before the commencement date.

(2) The amendments made by Schedule 1 to the 1964 Act do not apply in relation to an application in respect of which the applicant is informed of a screening decision before the commencement date.

(3) In this paragraph—

“application” means an application for a harbour revision order, a harbour empowerment order or a closure order;

“screening decision” means a decision under paragraph 6(1)(a) of Schedule 3 to the 1964 Act in response to a notice given under paragraph 3(a) of that Schedule.

#### **Proposals for closure orders made otherwise than on the application of a harbour authority**

3.—(1) The amendments made by Schedule 1 to section 17D(2)(e) of the 1964 Act do not apply in relation to a proposal in respect of which a screening decision is made before the commencement date.

(2) The amendments made by Schedule 1 to paragraph 4 of Schedule 3 to the 1964 Act do not apply in relation to a proposal which is made before the commencement date.

(3) The amendments made by Schedule 1 to Schedule 3 to the 1964 Act do not apply in relation to a proposal in respect of which a screening decision is made before the commencement date.

(4) In this paragraph—

“proposal” means a proposal to make a closure order otherwise than on the application of a harbour authority;

“screening decision”, in relation to a proposal, means a decision under section 17D(2)(e) of the 1964 Act.

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4.—(1) Despite the amendments made by paragraph 3 of Schedule 2, superseded sections 105A(2) and (3)(b) continue to apply on and after the commencement date for the purpose of determining whether an existing project is, or should be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

“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.

## **PART 3**

### **The 1992 Act and the 2006 Rules**

#### **Requests for a screening decision made before the commencement date**

7.—(1) The amendments made by Schedule 3 to section 6 of the 1992 Act do not apply in relation to a qualifying screening decision request.

(2) The amendments made by Schedule 4 to rules 4 and 7 of the 2006 Rules do not apply in relation to a qualifying screening decision request.

(3) In this paragraph “qualifying screening decision request” means a request made under rule 7(4) of the 2006 Rules before the commencement date.

#### **Requests for a scoping opinion made before the commencement date**

8.—(1) The amendments made by Schedule 3 to section 6 of the 1992 Act do not apply in relation to a qualifying scoping opinion request.

(2) The amendments made by Schedule 4 to rules 4 and 8 of the 2006 Rules do not apply in relation to a qualifying scoping opinion request.

(3) In this paragraph and paragraph 9, “qualifying scoping opinion request” means a request made under rule 8(1) of the 2006 Rules before the commencement date.

#### **Applications for orders under sections 1 and 3 of the 1992 Act**

9.—(1) The amendments specified in sub-paragraph (2) do not apply in relation to—

(a) an application in respect of which an environmental statement is submitted before the commencement date, or

(b) an application which is made following an opinion given on or after the commencement date in response to a qualifying scoping opinion request.

(2) The specified amendments are—

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- (a) the amendments made by Schedule 3 to the 1992 Act, and
  - (b) the amendments made by Schedule 4 to the 2006 Rules.
- (3) In this paragraph—
- “application” means an application under section 6 of the 1992 Act for an order under section 1 or 3 of that Act;
  - “environmental statement” has the meaning given by section 14(3D) of the 1992 Act as it is in force immediately before the commencement date.

**Existing proposals: screening decision**

**10.**—(1) The amendments made by Schedule 4 to rule 4 of and paragraphs 4, 5 and 7 of Schedule 7 to the 2006 Rules do not apply in relation to a proposal which is made by an appropriate national authority before the commencement date.

- (2) In this Part of this Schedule—
- “appropriate national authority”—
  - (a) in relation to a proposal to which rule 28 of the 2006 Rules applies, means the National Assembly for Wales;
  - (b) otherwise, means the Secretary of State;
- “proposal” means a proposal to make an order by virtue of section 7 of the 1992 Act.

**Existing proposals: scoping opinion**

**11.**—(1) The amendments made by Schedule 4 to rules 4 and 8 of the 2006 Rules do not apply in relation to a proposal in respect of which the relevant appropriate national authority consults as required by paragraph 9 of Schedule 7 to the 2006 Rules before the commencement date.

(2) In this paragraph and paragraph 12 “relevant appropriate national authority”, in relation to a proposal, means the appropriate national authority which makes the proposal.

**Existing proposals: other procedural requirements**

**12.**—(1) The amendments specified in sub-paragraph (2) do not apply in relation to a proposal in respect of which the relevant appropriate national authority—

- (a) consults as required by paragraph 9 of Schedule 7 to the 2006 Rules before the commencement date, or
  - (b) deposits a copy of the environmental statement in the library of the House of Commons (as required by paragraph 13 of Schedule 7 to the 2006 Rules) before that date.
- (2) The specified amendments are—
- (a) the amendments made by Schedule 3 to the 1992 Act, and
  - (b) the amendments made by Schedule 4 to rule 4 the 2006 Rules.