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## SCHEDULES

### [<sup>F1</sup>SCHEDULE 3

#### PROCEDURE FOR MAKING HARBOUR REVISION AND EMPOWERMENT ORDERS

##### Textual Amendments

- F1** Sch. 3 substituted (1.2.2000) by [The Harbour Works \(Environmental Impact Assessment\) Regulations 1999 \(S.I. 1999/3445\)](#), reg. 15(4), **Sch. 3**

##### Modifications etc. (not altering text)

- C1** Sch. 3 modified (1.4.2001) by [2000 c. 38, s. 37, Sch. 5 para. 1\(2\)\(j\)](#) (with s. 106); [S.I. 2001/869, art.2](#)
- C1** Sch. 3: transfer of functions (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 29\(2\)\(b\)\(ii\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6, 9](#)); [S.I. 2017/1179, reg. 3\(g\)](#) (with transitional provisions and savings in [S.I. 2018/278, reg. 2, Sch.](#))

### PART I

#### ORDERS MADE ON APPLICATION TO THE SECRETARY OF STATE

##### *The decision*

- [<sup>F2</sup>19 (1) The Secretary of State must—
- (a) in the case of an EIA application, consider the matters specified in sub-paragraph (2) and, if relevant, sub-paragraph (5);
  - (b) in the case of any other application, consider the matters specified in sub-paragraph (4) and, if relevant, sub-paragraph (5).
- (2) The matters to be considered in respect of an EIA application are—
- (a) the reasoned conclusion (including whether it is up to date);
  - (b) to the extent that they were not required to be taken into account in reaching the reasoned conclusion—
    - (i) any objections made and not withdrawn;
    - (ii) the report of any person who held an inquiry or of any person appointed for the purpose of hearing an objector;
  - (c) if the Secretary of State is minded to make the order applied for, whether monitoring of the significant adverse effects of the project on the environment is appropriate, and if so—
    - (i) whether it is necessary to modify the order to include a monitoring measure, and
    - (ii) whether or not to include provision in the order for potential remedial action.
- (3) For the purpose of determining whether it is appropriate to impose a monitoring measure, the Secretary of State must have regard to any existing monitoring

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arrangements which are carried out in accordance with an obligation under the law of any part of the United Kingdom (other than a provision implementing the EIA Directive).

- (4) The matters to be considered in respect of an application mentioned in sub-paragraph (1)(b) are—
- (a) any objections made and not withdrawn, and
  - (b) the report of any person who held an inquiry or of any person appointed for the purpose of hearing an objector.
- (5) If an application for a harbour revision order relates to a project to be carried out in Scotland, the Scottish Ministers must also consider any written representations—
- (a) submitted to them by the applicant in elaboration of the application, or
  - (b) submitted to them by an objector in elaboration of any objection.
- (6) Following the consideration required by sub-paragraph (1), the Secretary of State must decide—
- (a) not to make the order applied for,
  - (b) to make the order in the form of the draft submitted to him, or
  - (c) to make the order with modifications.
- (7) Sub-paragraph (6) is subject to paragraph 19A.
- (8) In this paragraph and paragraph 19A “monitoring measure” means a requirement to monitor any significant adverse effects of a project on the environment.]

#### Textual Amendments

- F2** Sch. 3 paras. 19-19B substituted for Sch. 3 para. 19 (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(18)** (with Sch. 6 paras. 2(2), 3(3))

[<sup>F2</sup>19A(1) The Secretary of State must make a decision under paragraph 19(6) in respect of an EIA application only if satisfied that the reasoned conclusion relating to that application is up to date.

- (2) A reasoned conclusion is to be taken to be up to date if, in the opinion of the Secretary of State, it addresses the likely significant effects of the project on the environment.
- (3) The Secretary of State may decide to modify an order to include a monitoring measure only if satisfied that the type of parameters which will be required to be monitored and the duration of such monitoring are proportionate having regard to—
  - (a) the nature, location and size of the project, and
  - (b) the significance of the effects of the project on the environment.

#### Textual Amendments

- F2** Sch. 3 paras. 19-19B substituted for Sch. 3 para. 19 (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(18)** (with Sch. 6 paras. 2(2), 3(3))

19B. The Secretary of State must make the decision required by paragraph 19(6) in respect of an EIA application within a reasonable period of time (having regard

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to the nature and complexity of the application and the project to which it relates) beginning with the day on which the Secretary of State has all the information needed to make that decision.]

#### Textual Amendments

**F2** Sch. 3 paras. 19-19B substituted for Sch. 3 para. 19 (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(18)** (with Sch. 6 paras. 2(2), 3(3))

[<sup>F3</sup>20 (1) This paragraph applies where the Secretary of State makes a decision under paragraph 19(6) in relation to an EIA application.

(2) The Secretary of State—

- (a) as soon as reasonably practicable after making the decision, must make the information specified in sub-paragraph (3) available on an official website, and
- (b) must keep the information available on the website throughout the period of three months beginning with the day on which it is first made available on the website in accordance with this paragraph.

(3) The specified information is—

- (a) the content of the decision whether or not to make the order and any conditions attached to it,
- (b) the main reasons and considerations on which the decision is based,
- (c) a summary of the results of any consultations under paragraph 15 or 16(6)(a),
- (d) a copy of any opinion given under paragraph 16(5)(b),
- (e) the details of the provision made for public participation in the making of the decision,
- (f) a summary of any objections—
  - (i) made about the likely significant adverse effects of the project on the environment, and
  - (ii) not withdrawn,
- (g) a summary of any representations made under paragraph 10 or 10A about the likely significant adverse effects of the project on the environment,
- (h) a copy of the reasoned conclusion,
- (i) a description of any features of the project or measures envisaged to avoid, prevent or reduce and, if possible, offset, any likely significant adverse effects of the project on the environment,
- (j) a summary of how the information mentioned above (and, in particular, any opinion given under paragraph 16(5)(b) or the results of any consultations under paragraph 16(6)(a)) have been taken into account in making the decision, and
- (k) a statement regarding the right to challenge the validity of the decision and the procedure for doing so.

(4) A failure to make the specified information available throughout the period specified in sub-paragraph (2)(b) is to be disregarded if—

- (a) the information was available on the official website for part of that period, and

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- (b) the failure is wholly attributable to circumstances that it would not be reasonable to expect the Secretary of State to prevent or avoid.
- (5) The Secretary of State, as soon as reasonably practicable after making the decision, must also publish by Gazette and local advertisement the following information—
- (a) the content of the decision whether or not to make the order and any conditions attached to it,
  - (b) the main reasons and considerations on which the decision is based,
  - (c) a statement regarding the right to challenge the validity of the decision and the procedure for doing so,
  - (d) a statement that the matters referred to in paragraph 19(1) have been taken into consideration, and
  - (e) details of the official website on which the information referred to in subparagraph (2) is made available.
- (6) The Secretary of State must also give notice of the information referred to in subparagraph (5) to such bodies likely to have an interest in the project by reason of their environmental responsibilities, or their local or regional competencies, as the Secretary of State considers appropriate.]]

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#### **Textual Amendments**

- F3** Sch. 3 para. 20 substituted (5.12.2017) by [The Environmental Impact Assessment \(Miscellaneous Amendments Relating to Harbours, Highways and Transport\) Regulations 2017 \(S.I. 2017/1070\)](#), reg. 1(1), **Sch. 1 para. 8(19)** (with Sch. 6 paras. 2(2), 3(3))

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