



# Highways Act 1980

## 1980 CHAPTER 66

### [<sup>F1</sup>PART VA

### ENVIRONMENTAL IMPACT ASSESSMENTS]

#### Textual Amendments

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

#### <sup>F2</sup>**105A Environmental impact assessments.**

- (1) In this Part—
  - “the Directive” means Council Directive No. [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive No. [97/11/EC](#);
  - “Annex” means an Annex to the Directive; 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.
- (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,

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he must, not later than the date when details of the project are published, publish an environmental statement.

- (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:—
- (a) land notified under section 28(1) (areas of special scientific interest) of the <sup>M1</sup>Wildlife and Countryside Act 1981 <sup>F3</sup>;
  - (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 <sup>F4</sup>;
  - (c) land to which section 29(3) (nature conservation orders) of the Wildlife and Countryside Act 1981 applies;
  - (d) a National Park within the meaning of the <sup>M2</sup>National Parks and Access to the Countryside Act 1949 <sup>F5</sup>;
  - (e) an area of outstanding natural beauty designated as such by an order made by the Countryside Commission, as respects England, or the Countryside Council for Wales, as respects Wales, under section 87 <sup>F6</sup> (designation of areas of outstanding natural beauty) of the National Parks and Access to the Countryside Act 1949 as confirmed by the Secretary of State.
  - (f) the Broads as defined in the <sup>M3</sup>Norfolk and Suffolk Broads Act 1988 <sup>F7</sup>;
  - (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. <sup>F8</sup>;
  - (h) a scheduled monument within the meaning of the <sup>M4</sup>Ancient Monuments and Archaeological Areas Act 1979 <sup>F9</sup>;
  - (i) a European site within the meaning of regulation 10 of the Conservation (Natural Habitats etc.) Regulations 1994 <sup>F10</sup>.

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- F3** 1981 c. 69, amended by the Wildlife and Countryside (Amendment) Act 1985 (c. 31), the Wildlife and Countryside (Service of Notices) Act 1985 (c. 59), the Norfolk and Suffolk Broads Act (c. 4) and the Planning (Consequential Provisions) Act 1990 (c. 11).
- F4** S.I. 1995/419.
- F5** 1949 c. 97.
- F6** Section 87 was amended by paragraph 1(12) of Schedule 8 to the Environmental Protection Act 1990 (c. 43).
- F7** 1988 (c. 4).
- F8** See Command Paper 9424.
- F9** 1979 c. 46. See the definition in section 1(11).
- F10** S.I. 1994/2716.

#### Marginal Citations

- M1** 1981 c. 69.
- M2** 1949 c. 97.
- M3** 1988 c. 4.
- M4** 1979 c. 46.

#### <sup>F11</sup>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) Any project for the construction or improvement of a special road which falls within Annex II is to be treated as having characteristics that require it to be made subject to an environmental impact assessment.
- (3) An 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.
- (4) The Secretary of State must ensure that the consultation bodies are given an opportunity to express an opinion on the published details of the 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; and
  - (b) any opinion on that statement expressed by a member of the public, by any of the consultation bodies or by any Member State consulted under section 105C.
- (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) 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; and

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- (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.
- (7) Publication by the Secretary of State in accordance with subsections (1), (3) and (6) shall be in the London Gazette and in at least one local newspaper circulating in the area in which the project for the construction or improvement of the highway is situated.
- (8) In this section—
- “the consultation bodies” means—
- (a) any principal council as defined in subsection (1) of section 270 of the <sup>M5</sup>Local Government Act 1972 for the area where the land is situated;
  - (b) where the land is situated in England, the Countryside Commission, English Heritage and the Nature Conservancy Council for England;
  - (c) where the land is situated in Wales, Cadw and the Countryside Council for Wales; and
  - (d) the Environment Agency.

#### Textual Amendments

**F11** Pt. VA substituted (13.3.1999) by S.I. 1999/369, reg.2

#### Marginal Citations

**M5** 1972 c. 70.

#### <sup>F12</sup>105C Other Member 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 Member State; or
  - (b) a Member 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 Member 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 Member State;
  - (b) any information which he has on the nature of the decision which may be taken on the project;
  - (c) information about the environmental impact assessment procedure (if he considers it 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 Member State indicates that it wishes to participate in the environmental impact assessment procedure, the Secretary of State must give it—

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- (a) a copy of the environmental statement for the project (if he has not already done so); and
  - (b) any information about the environmental impact assessment procedure which he considers it appropriate to give and which has not already been given to the Member 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 Member 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 Member 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 Member State concerned regarding, among other matters, the potential significant effects of the project on the environment of that Member State and the measures envisaged to reduce or eliminate those effects; and
  - (b) agree with that Member State a reasonable period for those consultations.
- (7) Where a Member State has been consulted in accordance with subsection (4), on the determination of the application concerned the Secretary of State must inform the Member State of the decision and must give it documents containing the matters referred to in section 105B(6).
- (8) In this section “Member State” has the same meaning as in the Directive.

#### Textual Amendments

**F12** Pt. VA substituted (13.3.1999) by [S.I. 1999/369](#), [reg.2](#)

VALID FROM 26/04/2007

#### <sup>F1</sup><sub>F13</sub> **Validity of decisions**

**105D**

- (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—

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- (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.]]

#### Textual Amendments

**F13** S. 105D inserted (26.4.2007) by [The Highways \(Environmental Impact Assessment\) Regulations 2007 \(S.I. 2007/1062\)](#), [reg. 5](#) (with [reg. 7](#))

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