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STATUTORY INSTRUMENTS

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**1999 No. 3445**

**The Harbour Works (Environmental  
Impact Assessment) Regulations 1999**

**PART II**

**—APPLICATIONS RELATING TO HARBOUR WORKS**

**Applications or notices relating to harbour works where a prior opinion has not been given**

**6.—(1)** This regulation shall apply where an application or notice of a description referred to in sub-paragraph (a), (b), (c) or (d) of regulation 5(1) is made or given and an opinion has not been given to the developer under regulation 4(1) in relation to the application or notice.

(2) Where an application of a description referred to in sub-paragraph (d)(i) of regulation 5(1) is made and the approval required to be obtained is not the approval of the appropriate Authority—

- (a) the developer shall notify the appropriate Authority of the application,
- (b) the appropriate Authority shall consider whether the application relates in whole or in part to harbour works to which this Part applies and shall reach a decision thereon as soon as reasonably practicable, and
- (c) if the appropriate Authority determines that the application relates in whole or in part to harbour works to which this Part applies—
  - (i) the approval shall not be granted, and
  - (ii) the developer shall not commence the proposed harbour works, unless paragraph (5) or (9) applies or the appropriate Authority consents to the carrying out of the proposed harbour works under regulation 10(2).

(3) In any other case to which this regulation applies—

- (a) the appropriate Authority shall consider whether the application or notice relates in whole or in part to harbour works to which this Part applies and shall reach a decision thereon as soon as reasonably practicable, and
- (b) if the appropriate Authority determines that the application or notice relates in whole or in part to harbour works to which this Part applies, the developer shall not commence the proposed works unless paragraph (5) or (9) applies or the appropriate Authority consents thereto under regulation 10(2).

(4) The appropriate Authority may require the developer to provide it with such of the following information as it deems necessary to enable it to consider whether the proposed harbour works constitute a project falling within Annex I or II to the Directive, and if within Annex II, to determine whether (after taking into account the selection criteria) they constitute a relevant project—

- (a) a plan sufficient to identify the location of the proposed harbour works;
- (b) a brief description of the nature and purpose of the proposed harbour works and of their possible effects on the environment;

(c) plans and sections showing the lines, situation and levels of the proposed harbour works; and

(d) such further information as it may specify in a particular case.

(5) Where it appears to the appropriate Authority that the proposed harbour works do not constitute a project falling within Annex I or II to the Directive, it shall in writing notify its decision to the developer and, in a case where a notice referred to in regulation 5(1)(b) has been given, the harbour authority, and subject to paragraph (8) it shall take no further action on the application or notice pursuant to this Part.

(6) Where it appears to the appropriate Authority that the proposed harbour works constitute a project falling within Annex I to the Directive—

(a) it shall in writing notify its decision and the reasons for its decision to the developer and, in a case where a notice referred to in regulation 5(1)(b) has been given, the harbour authority, and

(b) paragraph (11) shall apply.

(7) Where it appears to the appropriate Authority that the proposed harbour works constitute a project falling within Annex II to the Directive—

(a) it shall determine whether, taking into account the selection criteria, the works constitute a relevant project,

(b) shall in writing notify its decision to the developer and, in a case where a notice referred to in regulation 5(1)(b) has been given, to the harbour authority, and

(c) where it determines that, taking into account the selection criteria, the works constitute a relevant project, it shall in writing notify the reasons for its decision, to—

(i) the developer, and

(ii) in a case where a notice referred to in regulation 5(1)(b) has been given, the harbour authority.

(8) The appropriate Authority shall make available for public inspection at all reasonable hours at a place within the locality of the harbour where the harbour works are proposed to be carried out, a copy of—

(a) its decision under paragraph (5), (6) or (7)(a), and

(b) any accompanying statement of reasons under paragraph (6) or (7)(c).

(9) Where the appropriate Authority decides pursuant to paragraph (7)(a) that the works do not constitute a relevant project, then subject to the provisions of paragraphs (7) and (8) it shall take no further action on the application or notice pursuant to this Part.

(10) Where the appropriate Authority decides pursuant to paragraph (7)(a) that the works constitute a relevant project, paragraph (11) shall apply.

(11) Where this paragraph applies, the appropriate Authority shall direct the developer to supply it, in such form as it may specify, with an environmental statement which includes so much of the information referred to in Schedule 1 as the appropriate Authority considers—

(a) is relevant to its decision under regulation 10 and to the specific characteristics of the proposed harbour works to which the application or notice relates and to the environmental features likely to be affected; and

(b) (having regard inter alia to current knowledge and methods of assessment) the developer may reasonably be required to compile.