
STATUTORY INSTRUMENTS

2006 No. 1466

The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006

Citation and commencement

1.—(1) These Rules may be cited as the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006.

(2) These Rules shall come into force on 11th September 2006.

Revocation

2. Subject to rule 3, the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000(1) (“the 2000 Rules”) are hereby revoked.

Transitional provisions

3.—(1) Where an application has been made under the 2000 Rules before the date of coming into force of these Rules and the Secretary of State has not, before that date, either made an order pursuant to that application or notified the applicant that he has decided not to make such an order, the 2000 Rules shall continue to have effect in relation to that application and these Rules shall not apply in relation to it.

(2) Where these Rules apply to an application but before the making of the application the applicant or the Secretary of State has carried out an action in pursuance of the 2000 Rules which could have been done under a corresponding provision in these Rules, that action will have effect as if it had been carried out under, or in relation to, the corresponding provision in these Rules.

Interpretation and notices

4.—(1) In these Rules (unless the context otherwise requires) references to sections are references to sections of the Transport and Works Act 1992 and—

“the 2000 Rules” means the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000;

“the Act” means the Transport and Works Act 1992;

“address” includes any number or address used for the purposes of electronic transmission;

“application” means an application under section 6 and “applicant” means a person making, or proposing to make, an application;

“banks” in relation to an inland waterway referred to in a category in Schedule 5 or 6 to these Rules has the meaning given in section 72(1) of the Land Drainage Act 1991(2);

“bridleway” has the same meaning as in the Highways Act 1980(3);

(1) S.I.2000/2190, as amended by S.I. 2000/3199, and S.I. 2002/1965.

(2) 1991 c. 59.

(3) 1980 c. 66.

“byway” means a way shown and described as a byway open to all traffic or a road used as a public path in a definitive map and statement, as defined in section 53(1) of the Wildlife and Countryside Act 1981(4);

“Crown interest” means a Crown or Duchy interest within the meaning of section 25(2);

“cycle track” has the same meaning as in the Highways Act 1980;

“the Directive” means Council Directive 85/337/EEC(5) on the assessment of the effects of certain public and private projects on the environment as amended by Council Directive 97/11/EC(6) and Directive 2003/35/EC of the European Parliament and of the Council(7);

“documents” includes photographs, drawings, maps and plans;

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means, but while in electronic form;

“environmental impact assessment” means an assessment, in accordance with Articles 5 to 10 of the Directive, of the likely impact upon the environment of the implementation of the works included in any order in respect of which an application is being, or is to be, made;

“environmental statement” means a statement that contains—

- (a) the information referred to in rule 11(1) ; and
- (b) such of the information referred to in Schedule 1 to these Rules as may reasonably be required in order to assess the environmental effects of the proposed works and which the applicant can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile,

and the “applicant’s statement of environmental information” means a statement submitted by an applicant as the environmental statement in relation to his application;

“expiry date for objections” means the date, being a date not less than 42 days after the date on which the application in question is made, which the applicant specifies in the notice published pursuant to rule 14(1) as the final date for making objections and other representations;

“footpath” has the same meaning as in the Highways Act 1980;

“highway” has the same meaning as in the Highways Act 1980;

“in writing” includes electronic transmission;

“local authority” means a county council, a district council, (in Wales) a county borough council, a London borough council, the Common Council of the City of London, the Council of the Isles of Scilly, Transport for London and a Passenger Transport Executive;

“local planning authority” means a local planning authority within the meaning of Part 1 of the Planning Act(8);

“objection” has the meaning given by rule 21 and “objector” shall be construed accordingly;

“occupier” includes—

- (a) a statutory undertaker (not being an owner) having a right to keep equipment on, in or over land; and

(4) 1981 c. 69, as amended by the Countryside and Rights of Way Act 2000 (c. 37).

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

(6) O.J. No. L173, 14.3.97, p. 5.

(7) O.J. No. L156, 25.6.03, p. 17.

(8) Part 1 has been 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).

- (b) a person having the right to construct or maintain, at a specific position on an inland waterway, a mooring post, gangway, landing stage or other erection or installation for a vessel (not being anything which when not in use is normally carried on the vessel);

“operative date” means the date falling 28 days after the expiry date for objections or such later date as the Secretary of State may specify;

“operator”—

- (a) in relation to a transport system, means any person carrying on an undertaking which includes the system, or any part of it, or the provision of transport services on the system; and
- (b) in relation to an inland waterway, means a navigation authority and, if different, the conservancy authority within the meaning of section 221(1) of the Water Resources Act 1991⁽⁹⁾;

“owner”, in relation to land, has the same meaning as in the Acquisition of Land Act 1981⁽¹⁰⁾;

“pipe-line owner” means—

- (a) any person in whom a pipe-line within the meaning of section 65 of the Pipe-lines Act 1962⁽¹¹⁾ is vested; and
- (b) any person—
- (i) designated as the owner of a controlled pipeline, within the meaning of section 14(2) of the Petroleum Act 1998⁽¹²⁾, by an order made by the Secretary of State under section 27 of that Act; or
- (ii) who is entitled to operate any such controlled pipeline in relation to which no such order has been made;

“the Planning Act” means the Town and Country Planning Act 1990⁽¹³⁾;

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003⁽¹⁴⁾;

“relevant coastal authority” means, in relation to works situated, or proposed to be carried out, in tidal waters which do not lie within the boundary of the area of a local authority in England or Wales—

- (a) every local planning authority whose area has a boundary which lies within 15 kilometres of any point on the works; or
- (b) where there is no such local planning authority, the local planning authority with the area boundary closest to the works;

“river” means any river (including any part of a river which is tidal or which has been canalised), lake, stream, ditch, culvert, drain, sluice, weir or any other passage by which water drains, but does not include—

- (a) a canal or inland navigation which is not a canalised part of a river;
- (b) any part of the river Tweed (as defined in section 6(8) of the Environment Act 1995⁽¹⁵⁾);

⁽⁹⁾ 1991 c. 57.

⁽¹⁰⁾ 1981 c. 67, as amended by the Planning and Compensation Act 1991 (c. 34) and the Planning and Compulsory Purchase Act 2004 (c. 5). There are other amendments not relevant to these Rules.

⁽¹¹⁾ 1962 c. 58, as amended by S.I. 2000/1937.

⁽¹²⁾ 1998 c. 17.

⁽¹³⁾ 1990 c. 8, as amended by the Planning and Compulsory Purchase Act 2004 (c. 5). Section 90 was amended by section 16(1) of the Transport and Works Act 1992 (c. 42). There have been other amendments which are not relevant to these Rules.

⁽¹⁴⁾ 2003 c. 21.

⁽¹⁵⁾ 1995 c. 25.

- (c) any part of the river Esk or river Sark at a point where either of the banks of the river is in Scotland;
- (d) any part of any tributary stream of the river Esk or river Sark at a point where either bank of such tributary stream is in Scotland; or
- (e) a public sewer or a sewer or pipe used primarily for the drainage of a building or any premises appurtenant to a building, or of a street;

“scoping opinion” has the meaning given in rule 8(1);

“screening decision” has the meaning given in rule 7(4);

“statutory undertaker” means—

- (a) any person authorised by an enactment to carry on a railway, tramway, trolley vehicle, guided transport, road transport, water transport, canal, inland navigation, harbour, pier, lighthouse, electricity supply, hydraulic power, sewerage or water undertaking;
- (b) a pipe-line owner;
- (c) a public communications provider;
- (d) a universal service provider in connection with the provision of a universal postal service;
- (e) the British Airports Authority ;
- (f) the Civil Aviation Authority;
- (g) a person who holds a licence under Chapter 1 of Part 1 of the Transport Act 2000⁽¹⁶⁾ (to the extent that the person is carrying out activities authorised by the licence); and
- (h) a gas transporter within the meaning of Part 1 of the Gas Act 1986⁽¹⁷⁾;

“street authority” and “street managers” have the meanings given in sections 49(1) and 49(4) respectively of the New Roads and Street Works Act 1991⁽¹⁸⁾;

“tidal waters” means such part of—

- (a) the territorial sea adjacent to the United Kingdom; and
- (b) the internal waters of the United Kingdom in so far as they are tidal or constitute part of the sea,

as lie within the English area (within the meaning of article 1(2) of the Civil Jurisdiction (Offshore Activities) Order 1987⁽¹⁹⁾);

“transport system” means a railway, tramway or trolley vehicle system or a system using a mode of guided transport prescribed by an order made under section 2;

“the Trinity House” has the meaning given in section 223 of the Merchant Shipping Act 1995⁽²⁰⁾;

“universal service provider” has the same meaning as in section 4 of the Postal Services Act 2000⁽²¹⁾ and references to the provision of a universal postal service shall be construed in accordance with that Act;

“works” means any works that may be authorised by an order made under section 1, 3 or 7 but in rules 7, 8, 11 and 16, and in paragraphs 4 to 6, 9, 14(f), 29 and 30 of Schedule 7 to these Rules, shall also include any matter that may be authorised by such an order; and

⁽¹⁶⁾ 2000 c. 38.

⁽¹⁷⁾ 1986 c. 44, as amended by the Utilities Act 2000 (c. 27), section 76.

⁽¹⁸⁾ 1991 c. 22.

⁽¹⁹⁾ S.I. 1987/2197.

⁽²⁰⁾ 1995 c. 21.

⁽²¹⁾ 2000 c. 26.

“works affecting”, in relation to any land, means works proposed to be carried out in, on, over or adjacent to that land.

(2) Where these Rules require that notice be served, published or displayed in a prescribed form the notice shall be served, published or displayed (as the case may be), duly completed—

- (a) in that form;
- (b) in a version of that form adapted to meet the circumstances of the particular case; or
- (c) in a form which has substantially the same effect as that form (whether the form is adapted or not),

and, except where these Rules require that the notice in question be published in a newspaper, duly signed by or on behalf of the person required to give the notice.

(3) A notice published pursuant to rule 14(2) and (3) or to paragraph 8 or 12 of Schedule 7 to these Rules in a local newspaper circulating in Wales shall be expressed in Welsh as well as in English.

Pre-application draft order and explanatory memorandum

5.—(1) The applicant shall send to the Secretary of State not later than 28 days before making an application—

- (a) a draft of the proposed order; and
- (b) a draft of the explanatory memorandum,

that the applicant intends to submit in pursuance of rule 10(2).

(2) Where an applicant has sent drafts to the Secretary of State in accordance with the provisions of paragraph (1), but subsequently amends any of those drafts, he shall not be required to send any amended drafts to the Secretary of State before making an application unless the applicant is of the opinion that the changes to the draft substantially alter the nature or effect of the proposed order.

Provision of environmental information

6. Where an applicant at any time serves notice on any of those named in column (2) of the table in Schedule 5 to these Rules which is not a public authority within the meaning of regulation 2(2) of the Environmental Information Regulations 2004⁽²²⁾ that for the purposes of the proposed application he wishes to be provided with environmental information—

- (a) the recipient of the notice so served, if so requested in writing by the applicant and subject to the recipient being reimbursed the reasonable cost of so doing, shall provide to the applicant any information which the recipient has and which either the recipient or the applicant considers relevant to a screening decision (if that decision has not yet been made) or to the preparation of an environmental statement; and
- (b) in the event of the recipient failing to provide such information before the end of the period of 28 days beginning with the date of such request the Secretary of State may (upon being requested to do so by the applicant) direct the recipient to provide the information and the recipient shall, upon receipt of such a direction, provide the information forthwith.

The requirement for environmental statement and screening decisions

7.—(1) Except where the Secretary of State has issued a direction pursuant to paragraph (3), an applicant shall when making an application submit an applicant’s statement of environmental information with that application in relation to any proposed works which are to be covered by that

(22) S.I. 2004/3391.

application, if those works constitute a project which is of a type mentioned in Annex I or, subject to paragraph (2), Annex II to the Directive.

(2) Where the proposed works constitute a project of a type mentioned in Annex II to the Directive an applicant is not required to submit an applicant's statement of environmental information if the Secretary of State has, under paragraph (13), notified the applicant that an environmental impact assessment is not required in relation to those works.

(3) Where the proposed works comprise or form part of a project serving national defence purposes and the Secretary of State considers that the carrying out of an environmental impact assessment of the works would have an adverse effect on those purposes he may direct that an environmental impact assessment of the works is not required.

(4) Before making an application (other than an application relating to works constituting a project which is of a type mentioned in Annex I to the Directive), an applicant may make a request in writing to the Secretary of State for a decision as to whether or not an environmental impact assessment of the proposed works covered by the application is required ("a screening decision").

(5) A request made pursuant to paragraph (4) shall be accompanied by—

- (a) a plan sufficient to identify the land affected by the works in question;
- (b) a brief description of the nature and purpose of the proposed works; and
- (c) a brief description of the possible effects on the environment of the works, and may include such other information as the applicant wishes to provide.

(6) If the Secretary of State considers that the information provided by an applicant in or with a request made under paragraph (4) is insufficient to enable him to make a screening decision he shall, not later than 28 days after receiving the request, notify the applicant in writing of the additional information that he considers he requires in order to make that decision.

(7) On receiving notification under paragraph (6), the applicant shall provide the Secretary of State with such of the additional information specified in that notification as the applicant is reasonably able to supply and, where any of the additional information so specified is not provided, a written explanation as to why the applicant is unable to provide the information.

(8) The Secretary of State shall not give a screening decision in response to a request under paragraph (4) until he has given notice of the request to, and invited the views of, the following bodies—

- (a) every local planning authority in whose area the works would be carried out, were the order for which the applicant proposes to apply to be made, or the relevant coastal authority (as the case may be);
- (b) where the proposals relate to a project within tidal waters and would require a licence under Part 2 of the Food and Environment Protection Act 1985(23), the Secretary of State for Environment, Food and Rural Affairs;
- (c) the Environment Agency(24);
- (d) the Countryside Agency(25) and English Nature(26) for a proposal affecting land in or adjacent to, or tidal waters in or adjacent to, England;
- (e) the Countryside Council for Wales(27) for a proposal affecting land in or adjacent to, or tidal waters in or adjacent to, Wales; and

(23) 1985 c. 48.

(24) See section 1(1) of the Environment Act 1995 (c. 25) which provides for the establishment of the Environment Agency.

(25) See sections 35 to 37 of the Regional Development Agencies Act 1998 (c. 45) and the Development Commission (Transfer of Functions and Miscellaneous Provisions) Order 1999 (S.I. 1999/416).

(26) See section 128 of the Environmental Protection Act 1990 (c. 43), as amended by the Countryside and Rights of Way Act 2000 (c. 37).

(27) See section 130 of the Environmental Protection Act 1990 (c. 43), as amended by the Countryside and Rights of Way Act 2000 (c. 37).

- (f) any other body which is designated by statutory provision as having specific environmental responsibilities and which the Secretary of State considers is likely to have an interest in the application.
- (9) The recipient of any notice served under paragraph (8) shall, not later than 28 days after receiving that notice, provide the Secretary of State with a written opinion as to whether or not, in the view of the recipient, the works in question should be the subject of an environmental impact assessment.
- (10) Where a request for a screening decision relates to an order which would, if made, authorise works which for the purposes of the Directive could constitute two or more projects which are not interdependent, the Secretary of State may, if he considers it expedient, treat each such project separately for the purposes of this rule and, in such a case, the references in this rule to works shall be construed as relating to each such project separately, and the references to the screening decision shall be construed as relating to such a decision in relation to each such project.
- (11) In making his screening decision, the Secretary of State shall take into account the selection criteria set out in Annex III to the Directive~~(28)~~.
- (12) If the Secretary of State considers that the works in question would be likely to have a significant effect on the environment if carried out, his screening decision shall be that an environmental impact assessment of the works is required.
- (13) The Secretary of State shall notify the applicant in writing of his screening decision not later than 42 days after receipt of the request made pursuant to paragraph (4) or, where a notification has been given under paragraph (6), not later than 42 days after receiving the further information that the applicant is required to supply by virtue of paragraph (7).
- (14) If the Secretary of State decides that an environmental impact assessment of the works is required, he shall give reasons for that decision in the notification given under paragraph (13).

Scoping opinion

- 8.**—(1) Before submitting an application in relation to works for which an environmental impact assessment is or may be required, the applicant may make a request in writing to the Secretary of State to state his opinion as to the information to be provided in the environmental statement (a “scoping opinion”).
- (2) A request under paragraph (1) shall be accompanied by—
- (a) a plan sufficient to identify the land affected by the works in question;
 - (b) a brief description of the nature and purpose of the proposed works; and
 - (c) a brief description of the possible effects on the environment of the works, and may include such other information as the applicant wishes to provide.
- (3) If the Secretary of State considers that the information provided by an applicant in or with a request made under paragraph (1) is insufficient to enable him to give a scoping opinion he shall, not later than 28 days after receiving the request, notify the applicant in writing of the additional information that he considers he requires in order to give that opinion.
- (4) The Secretary of State shall not give a scoping opinion in response to a request under paragraph (1) until he has consulted the applicant and the following bodies—
- (a) every local planning authority in whose area the works would be carried out, were the order for which the applicant proposes to apply to be made, or the relevant coastal authority (as the case may be);

- (b) where the proposals relate to a project within tidal waters and would require a licence under Part 2 of the Food and Environment Protection Act 1985, the Secretary of State for Environment, Food and Rural Affairs;
 - (c) the Environment Agency;
 - (d) the Countryside Agency and English Nature for a proposal affecting land in or adjacent to, or tidal waters in or adjacent to, England;
 - (e) the Countryside Council for Wales for a proposal affecting land in or adjacent to, or tidal waters in or adjacent to, Wales; and
 - (f) any other body which is designated by statutory provision as having specific environmental responsibilities and which the Secretary of State considers is likely to have an interest in the application.
- (5) In forming a scoping opinion the Secretary of State shall take into account—
- (a) the specific characteristics of the works in question;
 - (b) the specific characteristics of works of the type concerned; and
 - (c) the environmental features likely to be affected by the works.
- (6) Subject to paragraph (7), the Secretary of State shall notify the applicant who made the request under paragraph (1) of his scoping opinion, in writing, not later than 42 days after receipt of that request or, where the Secretary of State has given a notification under paragraph (3), 42 days after receipt of the additional information mentioned in that notification.
- (7) Where an applicant makes a request for a scoping opinion under paragraph (1) at the same time as he makes a request for a screening decision pursuant to rule 7(4) in relation to the same proposed works, or after he has made a request for such a screening decision but before the Secretary of State has notified him of the screening decision in relation to the works, the Secretary of State shall notify the applicant, in writing, of his scoping opinion not later than 42 days after the date on which he notifies the applicant of his screening decision.
- (8) Where the Secretary of State has given a scoping opinion to an applicant he shall not be precluded from requiring that applicant to provide further information in connection with any applicant's statement of environmental information that may be submitted by that applicant in connection with an application relating to the same, or substantially the same, works as were referred to in that scoping opinion.

Form of application

9.—(1) An application for an order to be made under section 1 or 3 shall be made in writing and shall be addressed to the Secretary of State.

(2) In the application the applicant shall give his name and the address to which all requests for further information, notices or other documents required to be served upon the applicant under the Act or these Rules are to be sent.

(3) The application shall be signed by—

- (a) the applicant or, where the applicant is a body corporate, a director, the secretary or a duly authorised officer of that body; or
- (b) the authorised agent of the applicant.

(4) In paragraph (3), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of that body.

Documents accompanying application

10.—(1) The applicant shall submit with an application 3 copies of that application.

- (2) The applicant shall submit with the application 4 copies of each of the following documents—
- (a) a draft of the proposed order;
 - (b) an explanatory memorandum that explains the purpose and effect of each article and schedule in the draft order;
 - (c) a concise statement of the aims of the proposals to which the application relates;
 - (d) a report summarising the consultations that have been undertaken, including confirmation that the applicant has consulted all those named in column (2) of the tables in Schedules 5 and 6 to these Rules where authority is sought for works or other matters described in column (1) of those tables, or if not, an explanation of why not;
 - (e) if the applicant is not an individual or a company regulated by the Companies Act 1985(29), a declaration as to the status of the applicant;
 - (f) a list of all consents, permissions or licences required under other enactments for the purposes of the powers sought in the application, which at the date of the application are being sought or which have been obtained or refused, specifying for each relevant consent, permission or licence—
 - (i) from whom the consent, permission or licence is or was required;
 - (ii) the date of the application, or of the grant or refusal of the consent, permission or licence (as the case may be); and
 - (iii) the reference number (if any) of the application;
 - (g) any screening decision made or direction given by the Secretary of State under rule 7, any scoping opinion given by him under rule 8 and, in a case where the proposed works are to be subject to an environmental impact assessment, the applicant’s statement of environmental information; and
 - (h) any direction given under rule 18.
- (3) When making an application for an order the applicant shall submit with the application—
- (a) the applicant’s proposals for funding the cost of implementing the order, and in particular, for funding the cost of acquiring land which is blighted within the meaning of section 149 of the Planning Act; and
 - (b) where the application is for an order containing proposals to carry out works—
 - (i) the plans and sections described in paragraphs (1) and (3) of rule 12; and
 - (ii) an estimate of the cost of carrying out the works provided for in the proposed order, which shall be in the form set out in Schedule 3 to these Rules or as nearly in that form as circumstances permit.
- (4) Subject to paragraph (5), in the case of an application for an order authorising the compulsory acquisition of land, or the right to use land, or to carry out protective works to buildings, or the compulsory extinguishment of easements and other private rights over land (including private rights of navigation over water), the applicant shall submit with the application the plan and the book of reference respectively described in paragraphs (5) and (8) of rule 12.
- (5) In the case of an application for an order providing for the extinguishment or diversion of rights of way over a footpath, bridleway, cycle track or byway, the applicant shall submit with the application a map of a scale not smaller than 1:2500 on which the path, way or track concerned, and, in the case of a diversion, the new path, way or track, is clearly delineated.

(29) 1985 c. 6, to which there are amendments not relevant to these Rules.

(6) Where the applicant seeks a direction from the Secretary of State under section 90(2A) of the Planning Act(30) that planning permission shall be deemed to be granted for the development provided for in the proposed order, he shall submit with the application—

- (a) a request in writing specifying the development for which the direction for such permission is sought;
- (b) a statement of any proposed planning conditions;
- (c) a statement of any matters which are intended to be reserved for subsequent approval by the local planning authority;
- (d) in respect of those matters not intended to be reserved for subsequent approval by the local planning authority, such further documents as have not otherwise been submitted with the application and which are necessary to support the request for the direction.

(7) Where the applicant seeks a direction from the Secretary of State under section 12(2A) of the Planning (Hazardous Substances) Act 1990(31) that hazardous substances consent shall be deemed to be granted, he shall submit with the application—

- (a) an application for hazardous substances consent in either Form 1 or 2 of the forms prescribed in Schedule 2 to the Planning (Hazardous Substances) Regulations 1992(32), as the case may require; and
- (b) the information and documentation specified in such one or more of regulations 5(1)(b), 5(2)(b) and 5(3)(b) of those Regulations as the case may require.

(8) As soon as practicable after the date of an application, the applicant shall submit to the Secretary of State evidence by affidavit of compliance with the provisions of rules 13, 14(1) to (8) and 15, and shall exhibit to any such affidavit copies of notices placed in newspapers and the London Gazette (and Lloyd's List if applicable) in accordance with rule 14.

(9) Where the Secretary of State is of the opinion that any of the information submitted pursuant to this rule, other than the applicant's statement of environmental information, is not adequate for its purpose he may within 28 days of receipt of an application—

- (a) direct the applicant to provide further information; and
- (b) where he makes such a direction he may require the applicant to comply with any of the provisions of rules 13 and 14 in respect of the further information required.

Environmental statements: provision of information

11.—(1) An environmental statement submitted in connection with an application shall include—

- (a) a description of the project comprising information on the site, design and size of the proposed works;
- (b) a description of the measures proposed to be taken in order to avoid, reduce and, if possible, remedy any significant adverse effects on the environment of the proposed works;
- (c) the data required to identify and assess the main effects which the proposed works are likely to have on the environment;
- (d) an outline of the main alternatives to the proposed works studied by the applicant and an indication of the main reason for his choice, taking into account the environmental effects; and
- (e) a non-technical summary of the information provided under sub-paragraphs (a) to (d).

(30) Subsection (2A) was inserted by section 16(1) of the Transport and Works Act 1992 (c. 42).

(31) 1990 c. 10. Section 12 (2A) was inserted by section 18 of the Transport and Works Act 1992.

(32) S.I. 1992/656 as amended by S.I. 1999/981.

(2) An environmental statement submitted in connection with an application shall, subject to paragraph (3), also include so much of the information specified in Schedule 1 to these Rules as is relevant to the proposed works.

(3) Where the Secretary of State has given a scoping opinion in relation to the application, the environmental statement in relation to that application need include only the information specified in that scoping opinion.

Plans, sections and book of reference

12.—(1) Subject to paragraphs (6) and (9), the plans referred to in rule 10(3)(b) are—

- (a) a plan drawn to a suitable scale not smaller than 1:2500 showing clearly, in relation to existing features, the location, the alignment, if any, and (subject to paragraph (7)) limits of deviation of the works described, or for which provision is made, in the proposed order;
- (b) where the plan described in sub-paragraph (a) comprises 3 or more separate sheets, a key plan drawn to a suitable scale showing clearly the relationship between such sheets; and
- (c) a plan (which may be the plan described in sub-paragraph (b)) drawn to a suitable scale not smaller than 1:50,000 showing clearly the general location of any works and, if provision is made for such works in the proposed order, in particular—
 - (i) the general line of the route of any works that are of a linear nature and which exceed 3 kilometres in length; and
 - (ii) the general location, in relation to the coast or river bank, of works of a kind described in section 3(1)(b).

(2) All plans referred to in paragraph (1) shall contain a reference to the National Grid base or, where this is not practicable, to the latitude and longitude of the site of the proposed works.

(3) Subject to paragraphs (6) and (9), the sections referred to in rule 10(3)(b) are sections having a suitable vertical scale not smaller than 1:500 and showing, by reference to Ordnance Survey or Chart datum—

- (a) on the same horizontal scale as the plan described at paragraph (1)(a), the levels of the proposed works, including in particular where relevant—
 - (i) ground levels;
 - (ii) the height of every intended bridge, viaduct, aqueduct, embankment and elevated guideway;
 - (iii) the depth of every intended cutting and tunnel;
 - (iv) the levels of the bed of any tidal waters or inland waterway in which it is proposed any works should be situated; and
 - (v) the height of every structure or device (including a cable) intended to be erected above, on or below the surface of, or on or beneath the bed of, tidal waters or an inland waterway;
- (b) on a horizontal scale not smaller than 1:500, the span and vertical clearance of every intended bridge, viaduct, aqueduct, gantry and other structure or device (including a cable) above ground level, for which provision is made in the proposed order;
- (c) in cross-section, on a horizontal scale not smaller than 1:500, the depths and water levels of every intended inland waterway, for which provision is made in the proposed order;
- (d) on a horizontal scale not smaller than 1:500, a cross section of every intended tunnel, for which provision is made in the proposed order; and
- (e) on a horizontal scale not smaller than 1:500, any altered gradient of a carriageway or a way forming part of a guided transport system on either side of every level crossing, bridge,

tunnel or underpass which would carry the carriageway or way or through which it would pass, for which provision is made in the proposed order.

(4) In paragraph (3) “cable” does not include catenary and related equipment for transport systems.

(5) Subject to paragraph (6), the plan referred to in rule 10(4) is a plan drawn to a suitable scale not smaller than 1:2500 (and which may be the plan described in paragraph (1)(a)) showing clearly any land—

- (a) over which it is proposed to acquire powers of compulsory acquisition, or any right to use the land or to carry out protective works to buildings;
- (b) in relation to which it is proposed that easements and other private rights (including private rights of navigation over water) shall be extinguished;
- (c) of which the applicant is the sole owner and occupier, and which it is proposed shall be used for the purposes of the order for which application is being made; or
- (d) in which there subsists a Crown interest, whether or not there are other interests in such land, and which it is proposed shall be used for the purposes of the proposed order.

(6) An applicant may in writing request the Secretary of State to direct that the scale for the plans and sections referred to in paragraph (1), (3) or (5) be varied and the Secretary of State may so direct where he is satisfied that such a request is reasonable and appropriate.

(7) Where the proposed order includes a power to make lateral deviation from the line of any proposed works (other than within the boundaries of a street) the limits of deviation shall be clearly shown upon the plan described at paragraph (1)(a).

(8) The book of reference referred to in rule 10(4) is a book which refers to the plan described in paragraph (5) and which (subject to the provisions of paragraph (10))—

- (a) contains the names of all owners, lessees, tenants (whatever the tenancy period) or occupiers of any land which it is proposed shall be subject to—
 - (i) powers of compulsory acquisition;
 - (ii) rights to use land, including the right to attach brackets or other equipment to buildings; or
 - (iii) rights to carry out protective works to buildings;
- (b) contains the names of all those entitled to enjoy easements or other private rights over land (including private rights of navigation over water) which it is proposed shall be extinguished;
- (c) contains the names of any others to whom the applicant would, if proceeding under section 5(1) of the Compulsory Purchase Act 1965⁽³³⁾, be required to give a notice to treat;
- (d) where there is a Crown interest in the land which it is proposed shall be used for the purposes of the order for which application is being made, specifies the owner of that interest;
- (e) specifies land—
 - (i) the acquisition of which is subject to special parliamentary procedure pursuant to section 12;
 - (ii) which is Green Belt within the meaning of section 2 of the Green Belt (London and Home Counties) Act 1938⁽³⁴⁾;
 - (iii) for which other land is to be given in exchange;

⁽³³⁾ 1965 c. 56.

⁽³⁴⁾ 1938 c. xciii.

- (iv) that is to be given in exchange for other land;
 - (v) which is within a European site or a European marine site, as those expressions are defined in regulations 2(1) and 10(1) of the Conservation (Natural Habitats &c.) Regulations 1994⁽³⁵⁾;
 - (vi) which is within an area of outstanding natural beauty, designated as such by an order made by the Countryside Agency, as respects England, or the Countryside Council for Wales, as respects Wales, under section 82 of the Countryside and Rights of Way Act 2000⁽³⁶⁾;
 - (vii) which is within a National Park within the meaning of the National Parks and Access to Countryside Act 1949⁽³⁷⁾;
 - (viii) which is property appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of World Cultural and Natural Heritage⁽³⁸⁾;
 - (ix) which is within the Broads⁽³⁹⁾;
 - (x) which is a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979⁽⁴⁰⁾;
 - (xi) which has been notified under section 28(1) (sites of special scientific interest) of the Wildlife and Countryside Act 1981⁽⁴¹⁾; and
- (f) specifies, for each plot of land identified in it and within which it is intended that all or part of the proposed works shall be carried out, the area in square metres of that plot.
- (9) Where provision is made in the proposed order for any works which are—
- (a) proposed to be formed or constructed for the accommodation of an owner or occupier of land adjacent to a proposed transport system or inland waterway; or
 - (b) ancillary to a proposed transport system, inland waterway or works of a kind described in section 3(1)(b),

the applicant shall not be obliged to show them as required by paragraphs (1) and (3) but shall give such indication of them as is reasonably practicable.

(10) The requirements of paragraph (8)(a) to (d) shall only extend to including those names which have been ascertained by the applicant, after making diligent inquiry, at the beginning of a period of 28 days ending with the date of the application; but where the applicant has reason to believe that relevant names have, or might have, been omitted he shall indicate this clearly in the book of reference.

(11) Subject to paragraph (10), where the applicant has made diligent inquiry in order to attempt to obtain the information mentioned in paragraph (8), the application shall not be invalidated by reason only of an error in, or the omission of information from, the book of reference.

Deposit of copy application etc. with others

13.—(1) The applicant shall serve a copy of the application and of every document that these Rules require shall accompany it, together with a statement containing the information set out in paragraph (8)(j), upon—

⁽³⁵⁾ S.I. 1994/2716 as amended by S.I. 2000/192.

⁽³⁶⁾ 2000 c. 37.

⁽³⁷⁾ 1949 c. 97.

⁽³⁸⁾ See Cmnd. 9424.

⁽³⁹⁾ See the Norfolk and Suffolk Broads Act 1988 (c. 4).

⁽⁴⁰⁾ 1979 c. 46. See the definition in section 1(11).

⁽⁴¹⁾ 1981 c. 69 as amended by the Countryside and Rights of Way Act 2000 (c. 37).

- (a) every local authority in whose area a transport system, inland waterway or other works to which the application relates is or are (or is or are to be) situated or, where the application relates only to a part of such a system, waterway or works, upon every local authority in whose area such a part is (or is to be) situated; and
- (b) every relevant coastal authority,

and shall deposit copies of the application, those documents and that statement in the library of the House of Commons and, unless the Secretary of State directs otherwise, in the library of the House of Lords.

(2) Where the application relates to work of a kind described in section 3(1)(b), the applicant shall serve a copy of the application and of every document (other than a copy of a document) which is required by these Rules to accompany it, together with a statement containing the information set out in paragraph (8)(j), upon the Trinity House.

(3) In the case of an application for an order authorising the works or other matters specified in any of the categories in column (1) of the table in Schedule 5 to these Rules, the applicant shall serve upon those named against such category in column (2) of that table a copy of the application and copies of the relevant documents.

(4) The Secretary of State may require the applicant to serve a copy of the application and copies of the relevant documents on any other body which is designated by statutory provision as having specific environmental responsibilities and which the Secretary of State considers is likely to have an interest in the application.

(5) The applicant shall not be obliged by virtue of this rule to serve upon anyone more than one copy of the same document.

(6) Where anyone has confirmed to the applicant in writing that he does not wish to be served with a copy of, or a copy of any part of, a document that the applicant is required to serve upon him by virtue of this rule, the applicant shall not be required to serve upon him that document or the relevant part of it.

(7) All documents required to be served upon anyone by virtue of this rule shall be so served forthwith after the making of the application.

(8) In this rule “relevant documents” means—

- (a) a draft of the proposed order;
- (b) the explanatory memorandum required by rule 10(2)(b);
- (c) the concise statement of aims required by rule 10(2)(c);
- (d) the report summarising the consultation undertaken required by rule 10(2)(d);
- (e) a copy of any direction given under rule 18;
- (f) in the case of categories 1 to 6, 8, 10 and 14 to 21 in the table in Schedule 5 to these Rules, any screening decision, scoping opinion and applicant’s statement of environmental information relating to the application that has been made;
- (g) in the case of categories 1 to 4, 7 and 9 to 11 in the table in Schedule 5 to these Rules, the estimate referred to in rule 10(3)(b)(ii);
- (h) in the case of category 10 in the table in Schedule 5 to these Rules, the map referred to in rule 10(5);
- (i) such of the plans and sections described in rule 10 as these Rules require shall accompany the application and as are relevant to the category in the table in Schedule 5 to these Rules under which the copy application is served; and

- (j) a statement specifying the capacity (or, if there is more than one, the capacities) in which the recipient is served, the expiry date for objections and the address to which an objection or other representation is to be sent.

Publicity for application

14.—(1) The applicant shall, after the application has been made, publish forthwith in the London Gazette (and, if the application relates to works of a kind referred to in section 3(1)(b), and the Secretary of State so directs, in Lloyd’s List) a notice of the application, which shall—

- (a) state the name of the applicant and the address given pursuant to rule 9(2);
- (b) state to whom the application has been made;
- (c) state whether the application is subject to an environmental impact assessment;
- (d) summarise the main proposals and specify the location of the proposed works (if any); and
- (e) state the address to which objections or other representations are to be sent and the expiry date for objections.

(2) The applicant shall publish, in the newspapers described in paragraph (3), a notice in the form of Form 1 in Schedule 2 to these Rules, such notice to be published on 2 separate occasions, the first publication to be not more than 14 days before, and not later than, the date of the application and the second to be not more than 7 days after the date of the application.

(3) The newspapers referred to in paragraph (2) are—

- (a) in the case of an application relating to works situated, or proposed to be carried out, in tidal waters and not lying within the area of a local authority, a local newspaper circulating in the area of each relevant coastal authority; and
- (b) in every other case, a local newspaper circulating in the area (or each of the areas) in which the proposals contained in the application are intended to have effect.

(4) In the case of an application for an order authorising the works or other matters specified in any of the categories in column (1) of the table in Schedule 6 to these Rules, the applicant shall, forthwith after the application has been made, serve upon those named against each category in column (2) of that table a notice containing the information specified in paragraph (5), and every notice served under the provisions of this paragraph shall state the capacity (or, if there is more than one, the capacities) in which the recipient of the notice is served.

(5) The information referred to in paragraph (4) is—

- (a) the name of the applicant;
- (b) to whom the application has been made, and the address to which objections or other representations are to be sent;
- (c) a statement as to whether the application is subject to an environmental impact assessment;
- (d) a concise summary of the matters for which provision is to be made in the order for which application has been made (including, in a case to which paragraph (6) or (7) of rule 10 applies, a statement that deemed planning permission or deemed hazardous substances consent, as the case may be, has been sought);
- (e) the names of all places, which shall be places within the area to which the proposals in the proposed order relate (or as close as reasonably practicable to that area) where a copy of the application and of the documents which are required by these Rules to accompany it may be inspected free of charge at all reasonable hours until the expiry date for objections; and
- (f) a statement that, until that date, any objection to the making of the order, or any other representation in relation to it, may be made in writing, stating the grounds for the objection

or other representation, to the Secretary of State at the address specified pursuant to sub-paragraph (b),

but in the case of a notice required to be published in a local newspaper it shall not be necessary for the notice to include any information pursuant to sub-paragraph (d) or (e) concerning a proposal contained in the application which is not relevant to the area in which such newspaper circulates.

(6) In the case of an application for an order authorising works the applicant shall, forthwith after the application has been made, display a notice in the form of Form 2 in Schedule 2 to these Rules upon, or as close as reasonably practicable to, the proposed sites of those works at a place accessible to the public and, where the order for which application has been made would include linear works exceeding 5 kilometres in length, such a notice shall be displayed at intervals of not more than 5 kilometres along the whole of the proposed route of the works except where this is impracticable due to the land in question being covered by water.

(7) Where an order for which application has been made would authorise—

- (a) the extinguishment or diversion (whether such diversion would be permanent or temporary) of a public right of way; or
- (b) the stopping-up or diversion of a street, or a restriction on the use of the street by any person or traffic, whether such stopping-up, diversion or restriction would be permanent or, in the case of a street specifically named in the proposed order, temporary,

the applicant shall, forthwith after the application has been made, display a notice in the form of Form 3 in Schedule 2 to these Rules, upon the right of way or street at, or as close as is reasonably practicable to, each point of extinguishment, diversion, stopping-up or restriction.

(8) In the case of an application for an order providing for the discontinuance of all railway passenger or tramway services from any station or on any line to which the provisions of sections of 37 to 39 (inclusive) of, or Schedule 5 to, the Railways Act 1993⁽⁴²⁾ apply, the applicant shall, forthwith after the application has been made, display a notice in the form of Form 4 in Schedule 2 to these Rules at every station to be closed and at every station directly served by an advertised service running from any station to be closed.

(9) The applicant shall use his best endeavours to ensure that every notice displayed under the provisions of paragraphs (6) to (8) shall continue to be displayed in a legible form until the expiry date for objections.

(10) The applicant shall supply a copy of the application, or of any document that these Rules require shall accompany an application, to any person who requests such a copy, subject to the payment by that person of a reasonable charge for the provision of that copy, and the applicant shall ensure that information as to how such copies may be obtained is displayed at every place at which copies of the application and those documents are made available for inspection.

Notices to owners, occupiers etc.

15.—(1) The applicant shall, forthwith after the application has been made, serve a notice in the form of Form 5 in Schedule 2 to these Rules (in this rule referred to as “Form 5”) upon all those, other than the applicant and the owner of any Crown interest, named in the book of reference described in rule 12(8).

(2) In every case where, pursuant to rule 12(10), the applicant has indicated in the book of reference that relevant names have or might have been omitted, he shall, forthwith after the application has been made, serve a notice in the form of Form 5 in the manner provided by section 66(4)(a) and (b).

⁽⁴²⁾ 1993 c. 43 as amended by the Transport Act 2000 (c. 38).

Developments likely to have significant effects on the environment of another part of the United Kingdom or certain other states

16.—(1) This rule applies where an application for an order under section 1 or 3 has been made and—

- (a) it appears to the Secretary of State that the application relates to proposed works which would be likely to have significant effects on the environment in Wales, Scotland, Northern Ireland, the Isle of Man or the Channel Islands;
- (b) it appears to the Secretary of State that the application relates to proposed works which would be likely to have significant effects on the environment of another Member State; or
- (c) another Member State whose environment is likely to be significantly affected by the proposed works to which the application relates requests information relating to the application.

(2) In a case falling within paragraph (1)(a), the applicant shall publish, if so directed by the Secretary of State, the information specified in paragraphs (1)(a) to (e) and (5)(d) and (e) of rule 14 in such newspapers circulating in the place in question as the Secretary of State may specify.

(3) In a case falling within paragraph (1)(b) or (c), the Secretary of State shall—

- (a) send the information mentioned in paragraph (5) to the Member State in question as soon as reasonably practicable and in any event no later than—
 - (i) the date of the publication of a notice in the London Gazette, pursuant to rule 14(1); or
 - (ii) in a case falling within paragraph (1)(c), no later than 7 days after receiving a request from the Member State in question; and
- (b) give the Member State in question a reasonable time in which to indicate whether it wishes to participate in the procedure for consideration of the application.

(4) The Secretary of State shall direct the applicant to take such steps as the Secretary of State considers necessary to ensure that the public is informed that the project is likely to have significant effects on the environment of another Member State and that the provisions of this rule apply.

(5) The information referred to in paragraph (3)(a) is—

- (a) a description of the proposed works, together with any information the Secretary of State has in connection with the application as to the possible significant effects of the works on the environment of the Member State in question; and
- (b) information on the nature of the decision which may be taken.

(6) Where a Member State has indicated, in accordance with paragraph (3)(b), that it wishes to participate in the procedure for the consideration of the application the Secretary of State shall, as soon as reasonably possible, send to the State in question (in so far as these documents and information have not already been supplied to that State)—

- (a) a copy of the application;
- (b) a copy of the applicant's statement of environmental information; and
- (c) any relevant information regarding the procedure for the consideration of the application and for undertaking an environmental impact assessment of the proposed works in question.

(7) In a case falling within paragraph (1)(b) or (c), the Secretary of State shall also—

- (a) arrange for the documents and other information referred to in paragraphs (5) and (6) to be made available, within a reasonable time, to the authorities referred to in Article 6(1) of the Directive and to the members of the public in the territory of the Member State which is likely to be significantly affected;

- (b) ensure that those authorities and members of the public concerned are given an opportunity, before any order is made authorising the works in question, to forward to the Secretary of State, within a reasonable time, their opinion on the information supplied;
- (c) enter into consultations with the Member State in question, regarding any potential significant effects of the proposed works on the environment of that Member State, the measures envisaged to reduce or eliminate such effects and such other matters relating to the proposed works as may be relevant to that Member State; and
- (d) provide, in agreement with the other Member State in question, a reasonable period of time for such consultations to take place before taking any decision as to whether or not to make the order in question.

(8) Where a Member State has been consulted in accordance with paragraph (7)(c), the Secretary of State shall inform that Member State of his decision as to whether or not the order in question should be made and shall send to that Member State a statement of—

- (a) the content of the decision and any conditions attached to the decision;
- (b) the main reasons for the decision and considerations on which it is based including the public participation process; and
- (c) a description, where relevant, of the main measures that the applicant is to be required to take in order to avoid, reduce and, if possible, remedy any major adverse environmental effects of the works.

Further information and notices

17.—(1) Where, in the opinion of the Secretary of State, the applicant's statement of environmental information should contain any additional information in order to constitute an environmental statement for the purposes of the application in question, the Secretary of State shall direct the applicant to supply that information.

(2) Without prejudice to paragraph (1), the Secretary of State, when considering an application in relation to which an applicant's statement of environmental information has been provided, may direct the applicant to provide such further information as may be specified concerning any matter which is required to be, or may be, dealt with in the environmental statement.

(3) Where any such direction as is mentioned in paragraph (1) or (2) has been given by the Secretary of State, the applicant shall comply with the requirements of that direction within such period as may be specified in that direction by the Secretary of State, or if no such period is specified as soon as is reasonably practicable to do so.

(4) Where information is provided by the applicant pursuant to paragraphs (1) to (3), the applicant shall—

- (a) publish, in the newspapers prescribed by rule 14(3) circulating in the areas to which the information is relevant, a notice in the form of Form 6 in Schedule 2 to these Rules;
- (b) serve a copy of the information on each person on whom, in accordance with these Rules, a copy of the applicant's statement of environmental information was served;
- (c) provide a copy or an additional copy of the information, or any part of the information, to any person who requests it, subject to the payment by that person of a reasonable charge for the provision of any such copy or additional copy; and
- (d) provide the Secretary of State with 4 copies of the information.

(5) The Secretary of State may direct an applicant to produce such evidence to verify any information in the applicant's statement of environmental information or in any further information provided as a consequence of a direction given under paragraph (1) or (2) as the Secretary of State may require.

(6) Where, after making an application, an applicant submits to the Secretary of State further environmental information in relation to that application otherwise than in pursuance of a direction under paragraph (1) or (2), the Secretary of State may require the applicant to comply with the steps set out in paragraph (4) in respect of that further information.

Waiver of requirements in relation to applications

18.—(1) An applicant may, at any time before or after making an application, submit a request in writing to the Secretary of State for a direction that any provision contained in rules 5, 9, 10 (other than paragraph (2)(g) of rule 10) and 12 to 15 shall not apply (or shall apply in part only) to an application he has made or proposes to make.

(2) A request made under paragraph (1) shall give reasons for the request.

(3) Where a request is made under paragraph (1) the Secretary of State may, where he is satisfied that it is impossible, impracticable or unnecessary for the applicant to comply with any provision contained in the rules mentioned in paragraph (1)—

- (a) direct that the provision in question shall not apply, or shall apply in part only, to the application in question; and
- (b) whether or not a direction has been given pursuant to sub-paragraph (a), direct that the applicant shall comply with the provision in question, or any part of it, at such later date as may be specified in the direction.

Fees for applications

19.—(1) Upon making an application the applicant shall pay a fee to the Secretary of State calculated in accordance with Schedule 4 to these Rules.

(2) In the circumstances specified in paragraph (3), an applicant may make a request in writing to the Secretary of State for the repayment of any part of the fee paid pursuant to paragraph (1).

(3) The circumstances are—

- (a) where, on a motion moved by a Minister of the Crown pursuant to section 9(4), either House of Parliament declines to pass a resolution approving proposals contained in the proposed order in question; or
- (b) where the application is withdrawn before the expiration of the time limit specified in paragraph (4) (whether or not a motion pursuant to section 9(4) is to be, or has been, moved in relation to the application in question).

(4) The time limit is—

- (a) in the case of an application in relation to which, pursuant to rules made under section 9 of the Tribunals and Inquiries Act 1992(43), the Secretary of State has given notice of his intention to hold a public inquiry, the expiration of the period of 14 days commencing with the date on which any such inquiry is closed;
- (b) in the case of an application in relation to which the Secretary of State has given to any person the opportunity of appearing before and being heard by a person appointed by the Secretary of State pursuant to section 11(2), the expiration of the period of 14 days commencing with the date on which the person appointed ceases to hear any representations made to him as a consequence of that opportunity being afforded;
- (c) in the case of an application in relation to which the provisions of rule 24 apply, the end of the day on which is completed the latest of such of the time periods specified in or pursuant to paragraphs (2) to (10) of that rule as shall apply to that application; or

(d) in any other case, the end of the operative date.

(5) Where a request is made pursuant to paragraph (2), the Secretary of State shall repay to the applicant such portion (if any) of the fee paid as the Secretary of State shall consider appropriate.

Orders made by the Secretary of State under section 7

20. Schedule 7 to these Rules (which imposes duties and powers on the Secretary of State where he proposes to make an order under section 7) shall have effect.

Objections and other representations: general

21.—(1) Subject to paragraph (2), an objection or other representation made in relation to an application shall only be an objection or other representation for the purposes of these Rules if it—

- (a) is received by the Secretary of State on or before the expiry date for objections;
- (b) is made in writing;
- (c) states the grounds of the objection or other representation;
- (d) indicates who is making the objection or other representation;
- (e) provides an address to which any correspondence relating to that objection or other representation may be sent.

(2) Where an objection or other representation relates to information supplied by the applicant pursuant to rule 17 after the application has been made, that objection or other representation shall be an objection or other representation for the purposes of these Rules even where it is made after the expiry of the date for objections, if it is made not later than 42 days after the date on which the information is supplied to the Secretary of State or the last date on which a notice relating to the information is published in a newspaper pursuant to rule 17(4), whichever date is the later.

(3) In this rule and in rules 22 to 25, a reference to an objection or other representation includes a reference to any document submitted with an objection or other representation.

Notice of objections and other representations

22.—(1) The Secretary of State shall, as soon as reasonably practicable after he has received an objection or other representation, provide the applicant with a copy of that objection or other representation.

(2) As soon as reasonably practicable after the expiry date for objections, the Secretary of State shall provide the applicant with a list of the objections and other representations that the Secretary of State has received stating, in each case—

- (a) the name and address of the objector or maker of the other representation; and
- (b) the reference number given to the objection or other representation.

(3) The Secretary of State may, upon request, provide any person with a copy of any objections or other representations made by others.

Application of written representations procedure

23.—(1) Subject to paragraphs (2) to (4), rule 24 shall apply to an objection unless, on or before the operative date, the Secretary of State has—

- (a) given notice in accordance with rules made under section 9 of the Tribunal and Inquiries Act 1992 that he will cause a public local inquiry to be held;
- (b) given notice to the applicant and every objector who made the objection in question that the objection will be dealt with in accordance with section 11(2);

(c) informed the objector in question and the applicant that it appears to him that the objection is of a type mentioned in paragraph (a) or (b) of section 10(3); or

(d) published a notice in the London Gazette in accordance with section 9(2) identifying the application and the proposals in it which in his opinion are of national significance.

(2) Rule 24 shall not apply in relation to an objection if, not later than the operative date, a statutory objector informs the Secretary of State in writing that he wishes the objection to be referred to a public local inquiry or dealt with in accordance with section 11(2).

(3) Rule 24 shall cease to apply to an objection if after the operative date either the Secretary of State or a statutory objector, as the case may be, takes in relation to that objection one of the steps mentioned in paragraph (1) or (2).

(4) Notwithstanding that one of the steps mentioned in paragraph (1) or (2) has been taken, the Secretary of State may, with the consent of the applicant and every statutory objector, and after consulting such other persons as he thinks fit, direct that rule 24 shall thereafter apply to all objections that have not been withdrawn; provided that, where any of the steps required to be taken under that rule have been taken before the date of that direction, they need not be taken again.

(5) In this rule “statutory objector” means a person within section 11(4) who has made an objection which has not been withdrawn.

Procedure by written representations

24.—(1) Where none of the steps mentioned in paragraph (1) or (2) of rule 23 has been taken by the operative date, the provisions of this rule shall apply and the Secretary of State shall notify the applicant and all those who have made, and not withdrawn, an objection or other representation pursuant to rule 21 that this is the case.

(2) The applicant shall, not later than 28 days of being notified pursuant to paragraph (1), send to the Secretary of State representations upon each objection.

(3) The Secretary of State shall, within 7 days of receiving representations from the applicant pursuant to paragraph (2), send to each objector a copy of any of those representations that relate to his objection and shall inform him of his rights under paragraph (4).

(4) An objector may, within 21 days of being sent a copy of the applicant’s representations pursuant to paragraph (3), reply in writing to the Secretary of State.

(5) Where the Secretary of State receives no reply from an objector within the period specified in paragraph (4) he may proceed to make a determination under section 13, unless he considers that he does not have sufficient information to enable him to make a determination.

(6) Where the Secretary of State receives a reply from an objector pursuant to paragraph (4) he shall, within 7 days of receipt, send a copy of such reply to the applicant.

(7) If the applicant wishes to send any further representations to the Secretary of State he shall do so within 14 days of being sent a copy of any reply pursuant to paragraph (6).

(8) Subject to paragraph (9), the Secretary of State may, upon expiry of the period specified in paragraph (7), proceed to make a determination under section 13, unless he considers that—

(a) he does not have sufficient information to enable him to make such a determination; or

(b) any further representations received from the applicant pursuant to paragraph (7) raise a new matter which, in the opinion of the Secretary of State, may affect his determination and upon which an objector should be given the opportunity to comment.

(9) Where, pursuant to paragraph (5) or (8)(a), the Secretary of State considers that he requires further information from the applicant or an objector to enable him to make a determination under section 13 or where, pursuant to paragraph (8)(b), he decides to give an objector a further opportunity

to comment, he shall write to the applicant and objector accordingly and he shall specify the period during which any further information or comments, as the case may be, shall be submitted to him.

(10) Where paragraph (9) applies, the Secretary of State shall consider, upon receipt of any further information or comments within the specified period, whether or not a further opportunity to comment should be given to the applicant or to an objector and, if so, he shall specify a period for making any further comments.

(11) The Secretary of State may, upon request, provide any person with a copy of any written representations or other material that have been sent to him pursuant to this rule.

(12) In making a determination under section 13, the Secretary of State may disregard any written representations or other material that have not been sent to him within any time limit specified under or pursuant to this rule.

Submission of written objections and other representations to inquiry or hearing

25. Where the Secretary of State causes a public local inquiry to be held or gives an objector an opportunity of being heard before a person appointed by the Secretary of State, the Secretary of State shall submit every objection and other representation made pursuant to rule 21 either to the inquiry inspector or the person so appointed, as the case may be, as soon as it is reasonably practicable to do so.

Power to set later time limits

26. The Secretary of State may in a particular case allow further time for the taking of such steps (including a step which he is required or enabled to take himself) which may or must be taken pursuant to these Rules and any reference to a date by which or a period within which any step is required to be taken shall be construed accordingly.

Service of notices or documents

27.—(1) Notices or documents required or authorised to be served or sent under any of the provisions of these Rules may be sent—

- (a) by post; or
- (b) subject to paragraphs (2) to (5), by electronic transmission.

(2) Where a notice or other document required to be served or sent for the purposes of these Rules is served or sent by electronic transmission the requirement shall be taken to be fulfilled where the recipient of the notice, or other document to be transmitted, has given his consent in writing to the use of electronic transmission.

(3) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that he requires a paper copy of all or any part of that notice or other document, the sender shall provide such a copy as soon as is reasonably practicable.

(4) A person may revoke his consent to the use of electronic transmission in accordance with paragraph (5).

(5) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of these Rules he shall—

- (a) give notice in writing revoking any consent given by him for that purpose; and
- (b) such revocation shall be final and shall take effect on a date specified by the person in the notice but that date shall not be less than 7 days after the date on which the notice is given.

Applications relating solely to Wales

28.—(1) This rule applies where an application for an order to be made under section 1 or 3, or a proposal to make an order under section 7(1)(b) or (c), relates solely to any matter specified in paragraph (2).

(2) The specified matters are—

- (a) the construction or operation of a transport system in Wales;
- (b) the construction or operation of an inland waterway in Wales;
- (c) the carrying out of works which interfere with rights of navigation within Wales or in the territorial sea adjacent to Wales; and
- (d) any works or other matters which would be carried out, or occur wholly, in Wales, or which would affect only Wales, and which are ancillary to any of the matters specified in sub-paragraphs (a) to (c).

(3) Where this rule applies—

- (a) subject to sub-paragraph (b), references in these Rules to the Secretary of State, other than the reference in rule 7(3), shall be construed as references to the National Assembly for Wales;
- (b) the reference to the Secretary of State in rule 23, in so far as it relates to paragraph (1) (d) of that rule, shall be construed as a reference to the Secretary of State and the National Assembly for Wales but otherwise shall be construed as a reference only to the Assembly;
- (c) the references to Wales in rule 16(1)(a) and in paragraph 29 of Schedule 7 to these Rules, shall be construed as references to England;
- (d) the following provisions in column (2) in Schedule 5 to these Rules shall not apply—
 - paragraph 1(a);
 - paragraph 5(b);
 - paragraph 8(b);
 - paragraph 14(b) except in so far as it relates to the Royal Commission on Ancient and Historical Monuments in Wales;
 - paragraph 15(b);
 - paragraph 16(b);
 - paragraph 22(b); and
- (e) paragraph 6(i)(b), in column (2) of Schedule 6 to these Rules, shall not apply.

Signed by authority of the Secretary of State

3rd June 2006

S. J. Ladyman
Minister of State
Department for Transport