

SCHEDULE 7

Rule 20

PROPOSALS FOR ORDERS UNDER SECTION 7

1. In this Schedule “the publication date” means the date of publication of the notice required by paragraph 11.

2. Where by virtue of this Schedule any provisions of these Rules apply in relation to a proposal of the Secretary of State to make an order under section 7, any reference in those provisions to—

“an applicant” shall be construed as references to the Secretary of State; and

an “application” shall be construed as references to the publication by the Secretary of State of the notice required by paragraph 11.

3. When the Secretary of State proposes to make an order under section 7 which would authorise a project within the meaning of the Directive, he shall determine whether an environmental impact assessment is necessary.

4. If the project is of a type mentioned in—

(a) Annex I to the Directive; or

(b) Annex II to the Directive and the Secretary of State considers that it would be likely to have a significant effect on the environment,

the Secretary of State shall determine that an environmental impact assessment is required unless the proposed works comprise or form part of a project serving national defence purposes and he considers that the carrying out of an environmental impact assessment of the works would have an adverse effect on those purposes.

5. Where the project is of a type mentioned in Annex II to the Directive the Secretary of State shall, for the purposes of determining whether an environmental impact assessment is necessary, consult those mentioned in rule 7(8) and provide them with the information described in rule 7(5) unless—

(a) he has already formed the view that the project would be likely to have a significant effect on the environment; or

(b) the works comprise or form part of a project serving national defence purposes and he considers that the carrying out of an environmental impact assessment of the works would have an adverse effect on those purposes.

6. Any body or person consulted pursuant to paragraph 5 shall, not later than 28 days after being consulted, provide the Secretary of State with a written opinion as to whether, in their opinion, the works in question should be the subject of an environmental impact assessment.

7. In reaching his determination as to whether an environmental impact assessment is necessary, the Secretary of State shall take into account the selection criteria set out in Annex III(1) to the Directive.

8. Any determination by the Secretary of State as to whether an environmental impact assessment is necessary, together with the reasons for that determination, shall be published in the London Gazette and in a local newspaper prescribed in rule 14(3) within 14 days of such a determination being reached.

9. Where the Secretary of State has determined that an environmental impact assessment of the proposed works is necessary he shall consult those bodies and persons mentioned in rule 8(4) before reaching an opinion as to the information to be provided in the environmental statement.

(1) Inserted by Council Directive [97/11/EC](#).

Status: This is the original version (as it was originally made).

10. Where any body or person consulted pursuant to paragraph 9 wishes to provide the Secretary of State with a written opinion as to the information to be provided in the environmental statement he shall do so no later than 28 days after being consulted.

11. Where, following completion of any necessary action pursuant to paragraphs 3 to 10, the Secretary of State proposes to make an order under section 7, he shall publish a notice of the proposals in the London Gazette, which notice shall include—

- (a) the title of the proposed order, a concise summary of the matters provided for in the proposed order and the location of any proposed works;
- (b) if applicable, a statement that the Secretary of State proposes to direct that planning permission or hazardous substances consent, as the case may be, shall be deemed to be granted;
- (c) a statement as to whether or not the proposals are subject to an environmental impact assessment;
- (d) the address to which objections and other representations are to be sent and the date of expiry of the period within which they must be made (being not less than 42 days from the date of the notice); and
- (e) the address, if different, to which requests may be made for further information about the proposed order (and, if applicable, any proposed direction for deemed planning permission or deemed hazardous substances consent).

12. The Secretary of State shall publish, in newspapers prescribed in rule 14(3), a notice containing—

- (a) the information specified in paragraph 11; and
- (b) the names of all places, which shall be places within the area to which the proposals relate (or as close as reasonably possible to that area), where copies of the documents referred to in paragraph 14 may be inspected free of charge at all reasonable hours during the period specified in pursuance of paragraph 11(d),

such notice to be published on two separate occasions, the first publication to be not more than 14 days before, and not later than, the publication date and the second to be not more than 7 days after that date.

13. The Secretary of State shall, forthwith after the publication date, serve a copy of the documents mentioned in paragraph 14 upon every local authority in whose areas the proposals are situated and every relevant coastal authority, and shall deposit copies of those documents in the library of the House of Commons and, where he considers it appropriate, in the library of the House of Lords.

14. The documents to be served by virtue of paragraph 13 are—

- (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;
- (d) a report summarising the consultations that have been undertaken, including confirmation that the Secretary of State 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) a list of all consents, permissions or licences required under other enactments in connection with the proposals which, at the publication date, are being sought or which have been

- obtained or refused, specifying for each relevant consent, permission or licence the information referred to in rule 10(2)(f)(i), (ii) and (iii);
- (f) where the proposed works are to be subject to an environmental impact assessment, an environmental statement, which shall include the information referred to in rule 11;
 - (g) a copy of any waiver statement made under paragraph 34;
 - (h) where the proposed order would authorise the carrying out of works—
 - (i) subject to paragraph 15, the plans and sections described in paragraphs (1) and (3) of rule 12;
 - (ii) an estimate of the cost of carrying out the works, which shall be in the form set out in Schedule 3 to these Rules or as nearly in that form as circumstances permit;
 - (i) subject to sub-paragraph (j) and paragraph 15, where the proposed order would authorise 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 plan and book of reference respectively described in paragraphs (5) and (8) of rule 12 subject to paragraphs (10) and (11) of that rule;
 - (j) where the proposed order would provide for the extinguishment or diversion of rights of way over a footpath, bridleway, cycle track or byway, a map of a scale not smaller than 1:2500 on which the path, way or track concerned, and, in the case of diversion, the new path, way or track is clearly delineated;
 - (k) where the Secretary of State proposes to direct under section 90(2A) of the Planning Act that planning permission shall be deemed to be granted, a statement signed by or on behalf of the Secretary of State specifying—
 - (i) the development to which the direction would apply;
 - (ii) any proposed conditions attaching to it;
 - (iii) a list of any matters which are intended to be reserved for subsequent approval by the local planning authority; and
 - (iv) in respect of those matters not intended to be so reserved, such further documents and information as may be necessary to support the making of the direction;
 - (l) where the Secretary of State proposes to direct under section 12(2A) of the Planning (Hazardous Substances) Act 1990⁽²⁾ that hazardous substances consent shall be deemed to be granted, Form 1 or Form 2 of the forms prescribed in Schedule 2 to the Planning (Hazardous Substances) Regulations 1992⁽³⁾ as the case may require, duly completed and signed by or on behalf of the Secretary of State, and the information and documentation specified in one or more of regulations 5(1)(b) and 5(3)(b) of those Regulations as the case may require; and
 - (m) a statement specifying the capacity (or, if more than one, the capacities) in which the recipient is served, the expiry date for objections and other representations and the address to which an objection or other representation is to be sent.

15. The Secretary of State may, if he considers it reasonable and appropriate, vary the scale of the plans and sections referred to in sub-paragraphs (h) and (i) of paragraph 14.

16. Where the proposed order relates to works of a kind described in section 3(1)(b), the Secretary of State shall, forthwith after the publication date, serve a copy of the documents specified in paragraph 14 upon the Trinity House.

(2) 1990 c. 10. Subsection (2A) was inserted by section 18 of the Transport and Works Act 1992 (c. 42).

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

Status: This is the original version (as it was originally made).

17. Where the proposed order would authorise the works or other matters specified in any of the categories in column (1) of the table in Schedule 5 to these Rules, the Secretary of State shall, forthwith after the publication date, serve upon those named against such category in column (2) of that table a copy of the proposed order and the following supporting documents—

- (a) the explanatory memorandum required by paragraph 14(b);
- (b) the concise statement of aims required by paragraph 14(c);
- (c) the summary report of consultations required by paragraph 14(d);
- (d) any environmental statement required by paragraph 14(f);
- (e) any waiver statement made under paragraph 34;
- (f) the plans and sections required by paragraph 14(h) and (i), in so far as they are relevant to the category in the table in Schedule 5 to these Rules under which the copy of the proposed order is served;
- (g) any cost estimate required by paragraph 14(h)(ii);
- (h) in the case of category 10 in the table in Schedule 5 to these Rules, the map referred to in paragraph 14(j); and
- (i) the statement referred to in paragraph 14(m).

18. The Secretary of State shall, forthwith after the publication date, serve a copy of the proposed order and the supporting documents listed in paragraph 17 on any body not mentioned in Schedule 5 to these Rules 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.

19. The Secretary of State shall not be obliged by virtue of paragraph 13, 16 or 17 to serve upon anyone more than one copy of the same document; and where anyone has confirmed to the Secretary of State 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 Secretary of State is required to serve upon him by virtue of those paragraphs, the Secretary of State shall not be required to serve upon him that document or the relevant part of it.

20. Where the proposed order includes works or other matters specified in any of the categories of column (1) of the table in Schedule 6 to these Rules, the Secretary of State shall, forthwith after the publication date, serve upon those named against such category in column (2) of that table a notice containing the information specified in paragraph 12, which notice shall state the capacity (or, if more than one, the capacities) in which the recipient of the notice is served.

21. Where the proposed order makes any provision—

- (a) for the purpose of suspending or discontinuing any operations; or
- (b) in consequence of the abandonment or neglect of any works,

the Secretary of State shall, forthwith after the publication date, serve upon every operator affected or likely to be affected a notice containing the information specified in paragraph 12, which notice shall state the capacity in which the recipient of the notice is served.

22. Where the proposed order would authorise works, the Secretary of State shall, forthwith after the publication date, display one or more notices in the form of Form 2 in Schedule 2 to these Rules in accordance with the requirements of rule 14(6).

23. Where the proposed order would authorise any of the matters described in rule 14(7)(a) or (b), the Secretary of State shall, forthwith after the publication date, display one or more of the notices in the form of Form 3 in Schedule 2 to these Rules in accordance with the requirements of rule 14(7).

24. Where the proposed order provides for the discontinuance of railway passenger or tramway services in the circumstances described in rule 14(8), the Secretary of State shall, forthwith after the

publication date, display one or more notices in the form of Form 4 in Schedule 2 to these Rules in accordance with the requirements of rule 14(8).

25. The Secretary of State shall use his best endeavours to ensure that every notice displayed under the provisions of paragraphs 22 to 24 shall continue to be displayed in a legible form until the expiry date for objections or other representations specified under paragraph 11(d).

26. The Secretary of State shall supply a copy of any document referred to in paragraph 14 to any person who requests such a copy, subject to the payment by that person of a reasonable charge for the provision of the copy, and he shall ensure that the information as to how such copies may be obtained is displayed at every place at which copies of those documents are made available for inspection.

27. Where paragraph 14(i) applies, the Secretary of State shall, forthwith after the publication date, serve a notice in the form of Form 5 in Schedule 2 to these Rules upon all those named in the book of reference other than the owner of a Crown interest.

28. Where pursuant to rule 12(10), as applied by paragraph 14(i), the Secretary of State has indicated in the book of reference that relevant names have or might have been omitted, he shall, forthwith after the publication date, serve a notice in the form of Form 5 in Schedule 2 to these Rules in the manner provided by section 66(4)(a) and (b).

29. Where it appears to the Secretary of State that the proposed order relates to 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, he shall publish the information specified in paragraph 12 in such newspapers circulating in the place in question as he may consider appropriate.

30.—(1) This paragraph shall apply where—

- (a) it appears to the Secretary of State that the proposed order relates to works which would be likely to have significant effects on the environment of another Member State; or
- (b) another Member State whose environment is likely to be significantly affected by the works to which the proposed order relates, requests information relating to the proposed order.

(2) Where this paragraph applies, the Secretary of State shall—

- (a) send the information mentioned in rule 16(5) to the Member State in question as soon as reasonably practicable and in any event no later than the publication date or, in a case falling within sub-paragraph (1)(b), no later than 7 days after receiving a request from the Member State in question;
- (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 proposed order;
- (c) take such steps as he 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 paragraph apply;
- (d) where a Member State has indicated that it wishes to participate in the procedure for considering the proposed order, send to the State in question (in so far as these documents and information have not already been supplied to that State) a copy of the proposed order and of the environmental statement and any other relevant information regarding the procedure for considering the proposed order and for undertaking an environmental impact assessment of the proposed works; and
- (e) comply with the requirements of rule 16(7) and (8), on the basis that the documents and information to be made available under rule 16(7)(a) shall be the documents and information referred to in rule 16(5) and sub-paragraph (2)(d) of this paragraph.

Status: This is the original version (as it was originally made).

31. Where after serving a copy of any environmental statement under paragraph 13 the Secretary of State produces further environmental information for the purposes of the proposed order, he shall, unless the information is provided for the purpose of a public local inquiry into the proposed order and is to be made available for public inspection in connection with that inquiry—

- (a) publish a notice of that further environmental information in the newspapers prescribed in rule 14(3);
- (b) serve a copy of the information on each person on whom, in accordance with this Schedule, a copy of his environmental statement was served;
- (c) provide a copy of the information (or any part of it) to any other person who so requests, subject to the payment by that person of a reasonable charge.

32. Subject to paragraphs 33 and 34, the Secretary of State may, following consultation with all those he considers would be likely to be affected, waive any provision of this Schedule, in whole or in part, where he considers that it is impossible, impracticable or unnecessary for him to comply with that provision or to comply in full.

33. The Secretary of State shall not waive any provisions of paragraphs 2 to 10, 14(f), 18 and 29 to 31 of this Schedule.

34. Where the Secretary of State decides to waive any provisions of this Schedule in accordance with paragraph 32, he shall send a statement to that effect to all that he has consulted.

35. The Secretary of State may, for the purpose of determining whether or not to make the proposed order, send any objection or other representation he has received to any other person and invite comments from that person within such period as he may specify.

36. The Secretary of State may disregard any comments that are not sent to him within the period specified pursuant to paragraph 35 and, except where paragraph 37 applies, he may, upon expiry of the specified period, proceed to a determination.

37. Where the Secretary of State causes a public local inquiry or hearing to be held under section 11 for the purposes of the proposed order, he shall submit every objection and other representation that he has received to the person appointed to hold the inquiry or hearing, as soon as it is reasonably practicable to do so.

38. The following provisions of these Rules shall also have effect in relation to the Secretary of State's proposal to make an order—

- (a) rule 6;
- (b) rule 21(1), with the exception of the words “Subject to paragraph (2)”; and
- (c) rule 22(3).