
STATUTORY INSTRUMENTS

2020 No. 460

The Harbours and Highways (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2020

Amendment of the Harbours Act 1964

2.—(1) The Harbours Act 1964(1) is amended as follows.

(2) In section 44 (limitation of right to challenge harbour revision orders, etc., in legal proceedings), as it applies in relation to England and Wales—

(a) in subsection (6)(2) omit the words “, in accordance with Article 11(1)(a) of the EIA Directive,”;

(b) for subsections (7) and (8)(3) substitute—

“(7) An order is within this subsection if, in relation to the proposed application relating to the project authorised by the order, the Secretary of State decided that an environmental impact assessment was required and informed the applicant accordingly under paragraph 6(2)(a) of Schedule 3.

(8) For the purposes of subsections (6) and (7), an “environmental organisation” is a non-governmental organisation promoting environmental protection.”

(3) For subsections (6) to (8)(4) of section 44, as it applies in relation to Scotland, substitute—

“(6) In the case of an order falling within subsection (7), an environmental organisation is to be deemed to have sufficient interest to make an application under subsection (1).

(7) An order is within this subsection if, in relation to the proposed application relating to the project authorised by the order, the Scottish Ministers decided that an environmental impact assessment was required and informed the applicant accordingly under paragraph 6(2)(a) of Schedule 3.

(8) For the purposes of subsections (6) and (7), an “environmental organisation” is a non-governmental organisation promoting environmental protection.”

(4) In Part 1 of Schedule 3 (procedure for making harbour revision and empowerment orders)—

(a) in paragraph 1(5), as it applies in relation to England and Wales—

(1) 1964 c. 40.

(2) Section 44(6) was inserted in relation to England and Wales by regulation 2 of the Harbour Works (Environmental Impact Assessment) (Amendment) (England and Wales) Regulations 2009, [S.I. 2009/269](#), and subsequently amended by paragraph 5(2) of Schedule 1 to the Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017, [S.I. 2017/1070](#).

(3) Subsections (7) and (8) of section 44 were inserted in relation to England and Wales by regulation 2 of the Harbour Works (Environmental Impact Assessment) (Amendment) (England and Wales) Regulations 2009, [S.I. 2009/269](#), and subsequently amended by paragraph 5(3) and (4) of Schedule 1 to the Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017, [S.I. 2017/1070](#).

(4) Subsections (6) to (8) of section 44 were inserted in relation to Scotland by section 25(1) and (2) of the Transport and Works (Scotland) Act 2007, asp 8, and were subsequently amended by paragraph 6(2), (3) and (4) of Schedule 1 to the Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017, [S.I. 2017/1070](#).

(5) In paragraph 1 of Schedule 3 to the Harbours Act 1964 (c. 40) the definitions of “the environment” and “environmental assessment” were inserted in relation to England and Wales by regulation 3 of, and paragraphs 1, 8(1) and 8(2)(c) of Schedule 1

- (i) in paragraph (b) in the definition of “the environment” after “protected under” insert “any law of any part of the United Kingdom which implemented”;
- (ii) for the definition of “environmental assessment” substitute—
 - ““environmental assessment” means an assessment of the effect of anything on the environment if the assessment is carried out under—
 - (a) retained EU law, or
 - (b) any other law of any part of the United Kingdom, other than any law which implemented the EIA Directive;”;
- (b) in paragraph 1(6), as it applies in relation to Scotland—
 - (i) in paragraph (b) in the definition of “the environment” after “protected under” insert “any law of any part of the United Kingdom which implemented”;
 - (ii) for the definition of “environmental assessment” substitute—
 - ““environmental assessment” means an assessment of the effect of anything on the environment if the assessment is carried out under—
 - (a) retained EU law, or
 - (b) any law of any part of the United Kingdom, other than any law which implemented the EIA Directive;”;
- (c) after paragraph 1 insert—
 - “1A. In this Part of this Schedule, references to provisions of the EIA Directive are to be read as if—
 - (a) in Annex III—
 - (i) in point 2(c)(v) the reference to Member States were a reference to the Secretary of State;
 - (ii) in point 2(c)(vi) the reference to Union legislation were a reference to retained EU law;
 - (b) in Annex IV—
 - (i) in the text following point 5(g) the words “established at Union or Member State level” were omitted;
 - (ii) in point 8 the following were substituted for the second sentence—

“Relevant information available and obtained through risk assessments pursuant to retained EU law, such as any law of any part of the United Kingdom which implemented [Directive 2012/18/EU](#) of the European Parliament and of the Council or Council Directive 2009/71/Euratom, or relevant assessments undertaken under other domestic legislation may be used for this purpose provided that the requirements of any law of any part of the United Kingdom which implemented this Directive are met.”
- (d) in paragraph 2 for “falling within”, in each place it occurs, substitute “of a type specified in”;

to, the Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017, [S.I. 2017/1070](#).

- (6) In paragraph 1 of Schedule 3 to the Harbours Act 1964 (c. 40) the definitions of “the environment” and “environmental assessment” were inserted in relation to Scotland by regulation 3 of, and paragraphs 1, 8(1) and 8(3)(c) of Schedule 1 to, the Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017, [S.I. 2017/1070](#).

- (e) in paragraph 3(2)(7) for “fall within” substitute “be of a type specified in”;
- (f) in paragraph (4)(2)(8) for “falls within”, in each place it occurs, substitute “is of a type specified in”;
- (g) in paragraph 8(3)(f)(9) after “additional information” insert “of a type”;
- (h) in paragraph 16 (projects likely to have significant effects on the environment in another EEA State)—
 - (i) in subparagraph 1(c) for “another EEA State”, in each place it occurs, substitute “an EEA State”;
 - (ii) for “the other EEA State”, in each place it occurs, substitute “the EEA State”;
- (i) in paragraph 20C(1)(d)(10) for “another EEA State” substitute “an EEA State”;
- (j) in paragraph 20D(1)(b)(11) for “satisfies or will satisfy the requirements of Article 1(2)(g) (i) to (iv) of the EIA Directive (definition of environmental impact assessment)” substitute “comprises, or will comprise, the steps set out in paragraphs (a) to (d) of the definition of “environmental impact assessment” in paragraph 1”.

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- (7) Paragraph 3 of Schedule 3 to the Harbours Act 1964 (c. 40) was substituted by regulation 3 of, and paragraphs 1, 8(1) and 8(5) of Schedule 1 to, the Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017, [S.I. 2017/1070](#).
 - (8) Paragraph 4 of Schedule 3 to the Harbours Act 1964 (c. 40) was substituted by regulation 3 of, and paragraphs 1, 8(1) and 8(6) of Schedule 1 to, the Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017, [S.I. 2017/1070](#).
 - (9) Paragraph 8 of Schedule 3 to the Harbours Act 1964 (c. 40) was substituted by regulation 3 of, and paragraphs 1, 8(1) and 8(10) of Schedule 1 to, the Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017, [S.I. 2017/1070](#).
 - (10) Paragraph 20C of Schedule 3 to the Harbours Act 1964 (c. 40) was inserted by regulation 3 of, and paragraphs 1, 8(1) and 8(20) of Schedule 1 to, the Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017, [S.I. 2017/1070](#).
 - (11) Paragraph 20D of Schedule 3 to the Harbours Act 1964 (c. 40) was inserted by regulation 3 of, and paragraphs 1, 8(1) and 8(20) of Schedule 1 to, the Environmental Impact Assessment (Miscellaneous Amendments Relating to Harbours, Highways and Transport) Regulations 2017, [S.I. 2017/1070](#).