

2020 No. 460

EXITING THE EUROPEAN UNION
HARBOURS, DOCKS, PIERS AND FERRIES
HIGHWAYS, ENGLAND AND WALES

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

Sift requirements satisfied 24th March 2020

Made - - - - 23rd April 2020

Laid before Parliament 28th April 2020

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018^(a).

The requirements of paragraph 3(2) of Schedule 7 to that Act (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

Citation and commencement

1. These Regulations may be cited as the Harbours and Highways (Environmental Impact Assessment) (Amendment) (EU Exit) Regulations 2020 and come into force on IP completion day.

Amendment of the Harbours Act 1964

2.—(1) The Harbours Act 1964^(b) 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)^(c) omit the words “, in accordance with Article 11(1)(a) of the EIA Directive,”;

^(a) 2018 c. 16. Section 8 was amended by section 27 of the European Union (Withdrawal Agreement) Act 2020 (c. 1).

^(b) 1964 c. 40.

^(c) 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.

Amendment of the Highways Act 1980

3.—(1) Part VA of the Highways Act 1980(a) (environmental impact assessments) is amended as follows.

(2) In section 105ZA(1)(b) (interpretation)—

- (a) in paragraph (b) in the definition of “the environment” after “protected under” insert “any law of any part of the United Kingdom which implemented”;
- (b) 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 Directive;”.

(3) After section 105ZA(1) insert—

“(1A) In this Part, references to provisions of the 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.””.

(4) In section 105A(c) (screening of projects for constructing or improving highways)—

- (a) in subsection (1)(a) for “falls within” substitute “is of a type specified in”;
- (b) in subsection (1)(b) for “falling within” substitute “of a type specified in”;
- (c) in subsection (3)(a) for “to be provided on the project under” substitute “described in”;
- (d) in subsection (3)(b) before “in Annex III” insert “set out”.

(5) In section 105AA(d) (exemptions)—

- (a) in subsection (1) for “does not fall within” substitute “is not of a type specified in”;
- (b) in subsection (6)(d) for “another EEA state” substitute “an EEA state”.

(6) In section 105AB(e) (publication of screening decisions: projects not to be subject to an environmental impact assessment)—

- (a) in subsection (1)(b) for “falling within” substitute “of a type specified in”;

(a) Part VA of the Highways Act 1980 (c. 66) was originally inserted by S.I. 1988/1241, but substituted by S.I. 1999/369. It was substantially substituted further by S.I. 2017/1070.

(b) Section 105ZA was inserted by S.I. 2017/1070, Schedule 2, paragraphs 1 and 2.

(c) Section 105A was substituted by S.I. 2017/1070, Schedule 2, paragraphs 1 and 3.

(d) Section 105AA was inserted by S.I. 2017/1070, Schedule 2, paragraphs 1 and 3.

(e) Section 105AB was inserted by S.I. 2017/1070, Schedule 2, paragraphs 1 and 3.

