

# #Transport and Works Bill 2023

**\*\*A\*\***

**\*\*BILL\*\***

**\*\*TO\*\***

Combine and simplify the various planning regulations in the United Kingdom; devolve powers to build railways, tramways and create their respective rights of way; reform compulsory purchase orders, and for related purposes.

*\*BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords, and Commons, in this present Parliament assembled, and by the authority of the same, as follows –\**

## **PART 1 PRELIMINARY**

### **1 Interpretation**

(1) In this act–

A “Transport System” refers to any of the following:

- (a) A railway;
- (b) A tramway;
- (c) A trolley.

A “high-speed railway” is a railway which is constructed to achieve operating speeds of 220 kilometres per hour or more on parts of the route.

["devolved nation" refers to Scotland, Wales, and Northern Ireland.](#)

### **2 Repeals**

(1) In the Transport and Works Act 1992 repeal—  
Part 1 “Orders authorising works etc” in its entirety.

### **3 Extent, Commencement and Short Title**

- (1) This Act extends to the Whole of the United Kingdom.
  - (a) This Act only comes into effect in a Devolved Nation after a Legislative Consent Motion has been passed by their respective Devolved Assembly.
- (2) This Act comes into force immediately upon Royal Assent.
- (3) This Act may be cited as the Transport and Works Act 2023.

## **PART 2**

### **TRANSPORT AND WORKS**

#### **4 Orders as to railways, tramways etc. within England**

(1) The Secretary of State may make an order relating to, or to matters ancillary to, the construction or operation of a transport system of any of the following kinds, provided they are entirely within England.

(2) A local authority may make an order relating to, or to matters ancillary to, the construction or operation of a transport system of any of the following kinds, provided the transport system stays within the territory of that Authority.

(3) Nothing under subsection 4(2) prohibits two or more local authorities from collaborating to construct transport systems that exist within multiple local authorities, as long as all relevant Authorities approve the transport system in question.

(4) If a local authority makes an order under subsection 4(2), the Secretary of State is obligated to provide funds to financially support the project as agreed upon between the local authority and the Secretary of State, with at least 33 percent of the total funding being provided by the Secretary of State, and at least 33 percent of the total funding being provided by the local authority.

(5) The Secretary of State may request amendments to transport systems due for construction under subsection 4(2), provided that they—

- (a) Make such a request within 28 days of such an order being approved by a Local Authority, and;
- (b) Provide written evidence that British Rail, a relevant sector of British Rail or a relevant Passenger Transport Board are of the opinion that the transport system in question is designed in a way that—
  - (i) Is incompatible with current or planned future usage of existing infrastructure, with no reasonable adjustments made by the organisation in question able to accommodate such a transport system, or;
  - (ii) Conflicts with long-term plans for construction of higher-order transport systems, or;
  - (iii) reasonable adjustments to the plan would allow the agency to connect with the transport system at a future stage.

(6) The Secretary of State may make an order to amend the plans laid out by a local authority under subsection 4(2), provided that—

- (a) They have made a request under subsection 4(4), and;
- (b) The local authority has rejected the amendments requested by the Secretary of state, or;
- (c) The local authority has failed to approve the amendments requested by the Secretary of State within 28 days after the making of such a request.

(7) Orders amended under either 4(4) or 4(5), the amended plans must receive renewed consent from the relevant Local Authority before going into force.

## **5 Orders as to railways, tramways etc. within Scotland, Wales and Northern Ireland**

(1) The Secretary of State may make an order relating to, or to matters ancillary to, the construction or operation of a transport system entirely or partially within Scotland, Wales or Northern Ireland.

(2) Any order made under 5(1) cannot go into force until the passage of a motion of consent by the relevant devolved parliament or assembly.

(3) Devolved ministers may request amendments to transport systems proposed under subsection 5(1), provided that they—

(a) Make such a request within 28 days of such an order being laid before Parliament, and;

(b) Provide evidence that British Rail, a relevant sector of British Rail, the Northern Ireland Ministry of Infrastructure, or a relevant passenger transport board are of the opinion that the transport system in question is designed in a way that—

(i) Is incompatible with current or planned future usage of existing infrastructure, with no reasonable adjustments made by the organisation in question able to accommodate such a transport system, or;

(ii) Conflicts with long-term plans for construction of higher-order transport systems, or;

(iii) reasonable adjustments to the plan which would allow the agency to connect with the transport system at a future stage.

(4) If the Secretary of State does not amend the plans as requested by devolved ministers, a devolved assembly or parliament may vote to amend the plans laid out in the order.

(5) Orders amended under 5(3) or 5(4) must be laid before Parliament a second time following amendment.

## **6 Orders by devolved ministers as to railways, tramways etc. within Scotland, Wales and Northern Ireland**

(1) Devolved ministers may make an order relating to, or to matters ancillary to, the construction or operation of a transport system entirely or partially within Scotland, Wales or Northern Ireland.

(2) The Secretary of State may request amendments to transport systems proposed under subsection 5(1), provided that they—

(a) Are located at least partially within England, and;

(b) Make such a request within 28 days of such an order being laid before a devolved parliament or assembly, and;

(c) Provide evidence that British Rail, a relevant sector of British Rail, the Northern Ireland Ministry of Infrastructure, or a relevant passenger transport board are of the opinion that the transport system in question is designed in a way that—

- (i) Is incompatible with current or planned future usage of existing infrastructure, with no reasonable adjustments made by the organisation in question able to accommodate such a transport system, or;
- (ii) Conflicts with long-term plans for construction of higher-order transport systems, or;
- (iii) reasonable adjustments to the plan which would allow the agency to connect with the transport system at a future stage.

(4) If the devolved minister does not amend the plans as requested by the Secretary of State, Parliament may vote to amend the plans laid out in the order, provided—

- (a) The amendments to the plans are located in England, or necessary to enable amendments to plans in England.

(5) Orders amended under 5(3) or 5(4) must be laid before the devolved parliament a second time following amendment.

(6) A Local Authority may make an order relating to, or to matters ancillary to, the construction or operation of a transport system of any of the following kinds, provided the transport system stays within the territory of that Authority.

(7) Nothing under subsection 6(6) prohibits two or more local authorities from collaborating to construct transport systems that exist within multiple Local Authorities, as long as all relevant Authorities approve the transport system in question.

(8) Devolved ministers may request amendments to transport systems enabled under subsection 6(6), provided that they—

- (a) Make such a request within 28 days of such an order being approved by a Local Authority, and;
- (b) Provide written evidence that British Rail, a relevant sector of British Rail, the Northern Ireland Ministry for Transport or a relevant Passenger Transport Board are of the opinion that the transport system in question is designed in a way that—
  - (i) Is incompatible with current or planned future usage of existing infrastructure, with no reasonable adjustments made by the organisation in question able to accommodate such a transport system, or;
  - (ii) Conflicts with long-term plans for construction of higher-order transport systems, or;
  - (iii) reasonable adjustments to the plan would allow the agency to connect with the transport system at a future stage.

(9) The devolved ministers may make an order to amend the plans laid out by a local authority under subsection 6(6), provided that—

- (a) They have made a request under subsection 6(8), and;
- (b) The local authority has rejected the amendments requested by the Secretary of state, or;

(c) The local authority has failed to approve the amendments requested by the Secretary of State within 28 days after the making of such a request.

(10) If orders are amended under either 6(8) or 6(9), the amended plans must receive renewed consent from the relevant Local Authority before going into force.

## **7 Orders as to high-speed railways**

(1) The Secretary of State may make an order relating to, or to matters ancillary to, the construction or operation of a high-speed railway entirely or partially within the United Kingdom.

(2) Devolved ministers may request amendments to transport systems proposed under subsection 5(1), provided that they—

- (a) Make such a request within 28 days of such an order being laid before Parliament, and;
- (b) Provide evidence that British Rail, a relevant sector of British Rail, the Northern Ireland Ministry of Infrastructure, or a relevant passenger transport board are of the opinion that the transport system in question is designed in a way that—
  - (i) Is incompatible with current or planned future usage of existing infrastructure, with no reasonable adjustments made by the organisation in question able to accommodate such a transport system, or;
  - (ii) Conflicts with long-term plans for construction of higher-order transport systems, or;
  - (iii) reasonable adjustments to the plan which would allow the agency to connect with the transport system at a future stage.

(3) Orders amended under 7(2) must be laid before Parliament a second time following amendment.

## **8 Orders as to inland waterways etc.**

(1) The Secretary of State may make an order relating to, or to matters ancillary to—

- (a) the construction or operation of an inland waterway in England and Wales;
- (b) the carrying out of works which—
  - (i) interfere with rights of navigation in waters within or adjacent to England and Wales, up to the seaward limits of the territorial sea, and
  - (ii) are of a description prescribed by order made under section 4 below.

(2) Subsection (1) is subject to—

- (a) section 33(2) of the Planning Act 2008 (exclusion of powers to authorise development);
- (b) section 120(9) of that Act (exclusion of power to include ancillary provision in orders).

(2) The Secretary of State shall not make an order under this section if in his opinion the primary object of the order could be achieved by means of an order under the Harbours Act 1964.

### **9 Subject-matter of orders under sections 4, 5, 6, 7 and 8**

(1) The power to make orders under sections 4, 5, 6, 7 and 8 shall be exercisable by statutory instrument.

(2) Without prejudice to the generality of sections 4, 5, 6, 7 and 8 above, the matters as to which provision may be made by an order under either of those sections include those set out in Schedule 1 to this Act.

(3) An order under sections 4, 5, 6, 7 and 8 above may make provision in relation to more than one scheme, system or mode of transport.

(4) An order under sections 4, 5, 6, 7 and 8 above may—

(a) apply, modify or exclude any statutory provision which relates to any matter as to which an order could be made under sections 4, 5, 6, 7 and 8, and

(b) make such amendments, repeals and revocations of statutory provisions of local application as appear to the Secretary of State, devolved ministers or a local authority to be necessary or expedient in consequence of any provision of the order or otherwise in connection with the order;

and for the purposes of this subsection “statutory provision” means provision of an Act of Parliament or of an instrument made under an Act of Parliament.

(5) The provisions that may be made by an order under sections 4, 5, 6, 7 and 8 above include—

(a) any provision that appears to the Secretary of State, devolved ministers or a local authority to be necessary or expedient for giving full effect to—

(i) any other provision of the order,

(ii) any provision of an earlier order under the section concerned, or

(iii) any provision which is contained in an Act of Parliament passed before the time when this Part of this Act is first wholly in force, or in an instrument made under an Act of Parliament before that time, and which is of a kind which could be included in an order under sections 4, 5, 6, 7 and 8 above;

(b) such supplemental and transitional provisions as appear to him to be necessary or expedient in connection with the order.

(6) A provision of an order under sections 4, 5, 6, 7 and 8 above relating to offences shall not authorise the imposition on persons convicted of an offence of a term of imprisonment or of a fine exceeding level 3 on the standard scale.

(7) An order under sections 4, 5, 6, 7 and 8 above shall not extinguish any public right of way over land unless the Secretary of State, devolved ministers or a local authority is satisfied—

(a) that an alternative right of way has been or will be provided, or

(b) that the provision of an alternative right of way is not required.

(7) Where an order under sections 104(3), 105(3) or 112 of the Transport Act 1968 (classification and maintenance of Canal & River Trust's waterways, and maintenance and use of other waterways) is required so as to give effect to any proposal, no provision shall be included in an order under sections 4, 5, 6, 7 and 8 above which would—

- (a) remove that requirement, or
- (b) alter the requirements of sections 104, 105 or 112 of, or Schedule 13 to, that Act relating to orders under those sections.

## **10 Applications for orders under sections 4, 5, 6, 7 and 8**

(1) Subject to section 7 below, Secretary of State, devolved ministers or a local authority shall not make an order under sections 4, 5, 6, 7 and 8 above except on an application made to him in accordance with rules made under this section.

(2) The Secretary of State may make rules as to—

- (a) the form of an application under this section;
- (b) the documents and information that must be submitted with it;
- (c) the giving and publication of notices of an application;
- (d) any other steps that must be taken before an application is made or in connection with the making of an application.

(3) The power to make rules by virtue of subsection (2) above includes power to make provision for or in connection with requiring the Secretary of State in such cases or circumstances as may be prescribed in the rules to give to a person who proposes to make an application under this section an opinion on the information, if any, to be supplied in connection with that application.

(4) The power to make rules by virtue of subsection (2) above includes a power to make rules as to the publicity to be given to any provided in relation to an application made under this section.

(5) Any provision made by rules as to the consultation that must be carried out before an application is made, or as to the provision of information by a relevant authority to a person for the purposes of an application which the person proposes to make, may include provision requiring compliance with general or special directions given by the Secretary of State.

(6) Rules under this section may make different provision for different cases, and may include provision authorising the Secretary of State, devolved ministers or a local authority—

- (a) to dispense with compliance with rules that would otherwise apply, or
  - (b) to require compliance with rules that would not otherwise apply,
- in any case where he considers it appropriate to do so.

(7) Rules may provide for fees of such amounts as may be determined by or in accordance with the rules to be payable to the Secretary of State on the making of applications under this section.

(8) The power to make rules under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(9) In subsection (5) above “relevant authority” means any authority in relation to which Article 5(4) of Council Directive 85/337/EEC, as amended by Council Directive 97/11/EC, (authorities holding relevant information to make it available to the developer) applies, and includes—

(a) a local planning authority, within the meaning of Part 1 of the Town and Country Planning Act 1990;

(b) any other person or authority having specific environmental responsibilities, or local or regional competences, which the Secretary of State considers is likely to have an interest in an application a person proposes to make.

### **11 Orders under sections 4, 5, 6, 7 and 8 made otherwise than on application.**

(1) The Secretary of State may without any application being made to him make—

- (a) an order under section 4 or 5 above which relates to, or to matters ancillary to, the construction for naval, military, air force or other defence purposes of a transportation system, or the operation of a transportation system.
- (b) an order under sections 4, 5, 6, 7 and 8 above making any provision which appears to the Secretary of State to be necessary or expedient, in the interests of safety,—
  - (i) for the purpose of suspending or discontinuing any operations, or
  - (ii) in consequence of the abandonment or neglect of any works;
- (c) an order under sections 4, 5, 6, 7 and 8 above repealing or revoking provisions which appear to the Secretary of State, devolved ministers or a local authority to be spent.

(2) An order made by virtue of subsection (1)(b) above may include provision for the recovery by the Secretary of State, devolved ministers or a local authority of the costs of making the order and of carrying its provisions into effect.

(3) Where the Secretary of State, devolved ministers or a local authority proposes to make an order by virtue of this section, they shall—

- (a) prepare a draft of the order,
- (b) publish a notice of his intention to make the order, which notice shall include such particulars as may be prescribed, in the London Gazette and in a local newspaper circulating in the area (or each of the areas) in which the proposals contained in the draft order are intended to have effect, and
- (c) give such further notices of the proposal as may be prescribed.

(4) The power to make provision by rules under section 10 above in relation to applications shall include power to make such corresponding provision as the Secretary of State considers appropriate in relation to proposals to make orders by virtue of this section; and in subsection (3) above “prescribed” means prescribed by rules under section 10.



## **12 Model clauses**

(1) The Secretary of State may by order prescribe model provisions for incorporation in any draft orders which, in accordance with rules made under section 10 above, may be required to be submitted with applications under that section.

(2) Different provisions may be prescribed under this section for different cases.

(3) The prescribing under this section of a model provision shall not of itself make it mandatory for a provision in the terms of the model to be incorporated in a draft order or in any order eventually made by the Secretary of State under sections 4, 5, 6, 7 and 8 above..

(4) The power to make orders under this section shall be exercisable by statutory instrument.

## **13 Schemes of national significance**

(1) This section applies where an application made under section 10 above relates (wholly or in part) to proposals which in the opinion of the Secretary of State are of national significance.

(2) Before the end of the period of 56 days beginning with the day on which he receives the application, the Secretary of State shall publish in the London Gazette a notice identifying the application and the proposals which in his opinion are of national significance.

(3) On, or as soon as practicable after, the day on which the notice required by subsection (2) above is published, the Secretary of State shall—

(a) publish a like notice in 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, and

(b) send a copy of the notice to the applicant and to every person within section 15(4) below who objected to the application in accordance with rules made under section 10 below.

(4) The Secretary of State shall not make an order on the application unless each House of Parliament, on a motion moved by a Minister of the Crown which identifies the proposals referred to above, passes a resolution approving them at some time later than 56 days after the day of publication of the notice required by subsection (2) above.

(5) An order made on the application shall not include any provision that is inconsistent with a proposal approved by a resolution in accordance with this section unless that provision gives effect to modifications of the proposal which have themselves been approved by a resolution of each House of Parliament passed on a motion moved by a Minister of the Crown.

(6) This section shall apply in relation to an order which the Secretary of State makes or proposes to make by virtue of section 10 above as it applies in relation to an order for which an application is made to him, except that in such a case—

- (a) subsections (2) and (3) above shall not apply, and
- (b) subsection (4) above shall apply as if the reference to the notice required by subsection (2) above were a reference to the notice required by section 10(3) above to be published in the London Gazette;

and any proposals which in the opinion of the Secretary of State are of national significance shall be identified as such in any notice required by or under section 10(3) above.

## **14 Objections**

(1) The Secretary of State may make rules as to—

- (a) the making of objections to an application under section 10 above or to a proposal to make an order by virtue of section 11 above;
- (b) the information to be comprised within or submitted with an objection;
- (c) the submission by the person making the application of written representations or information in relation to objections;
- (d) the submission of further written representations or information;
- (e) such other matters relating to the consideration of objections as appear to the Secretary of State to be appropriate.

(2) Subject to the following provisions of this section, the Secretary of State, devolved ministers or a local authority shall not make a determination under section 17(1) below to make an order without first taking into consideration the grounds of any objection in respect of which rules under this section have been complied with.

(3) If an objection is withdrawn or appears to the Secretary of State, devolved ministers or a local authority—

- (a) to be frivolous or trivial, or
- (b) to relate to matters which fall to be determined by a tribunal concerned with the assessment of compensation,
- (c) to be based on concerns about minor changes in property value,

he may make a determination under section 17(1) below without further consideration of the objection.

(4) Subsection (2) above shall not apply where the Secretary of State, devolved ministers or a local authority causes an inquiry to be held under section 15(1) below or causes an objection to be dealt with in accordance with section 15(2) below, but the Secretary of State, devolved ministers or a local authority shall not make a determination under section 17(1) below without first taking into consideration the report of the person holding the inquiry, or as the case may be of the person appointed under section 15(2).

(5) Rules under this section may make different provision for different cases, and may include provision authorising the Secretary of State, devolved ministers or a local authority—

- (a) to dispense with compliance with rules that would otherwise apply, or
- (b) to require compliance with rules that would not otherwise apply,

in any case where he considers it appropriate to do so.

(6) The power to make rules under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **15 Inquiries and hearings**

(1) The Secretary of State, devolved ministers or a local authority may cause a public local inquiry to be held for the purposes of an application under section 10 above or a proposal by the Secretary of State, devolved ministers or a local authority to make an order by virtue of section 11 above.

(2) The Secretary of State, devolved ministers or a local authority may give to a person who makes an objection in accordance with rules under section 14 above an opportunity of appearing before and being heard by a person appointed by the Secretary of State, devolved ministers or a local authority for the purpose.

(3) Where an objection is made by a person within subsection (4) below who informs the Secretary of State, devolved ministers or a local authority in writing that he wishes the objection to be referred to an inquiry or dealt with in accordance with subsection (2) above, then, unless section 14(3) above applies, the Secretary of State, devolved ministers or a local authority shall either cause an inquiry to be held or, if he so determines, cause the objection to be dealt with in accordance with subsection (2).

(4) The persons within this subsection are—

- (a) any local authority for an area in which any works authorised by the proposed order are to be carried out, and
- (b) British Rail Engineering;

and for the purposes of paragraph (a) above “local authority” means a devolved parliament or assembly, county council, a district council, a London borough council, the Common Council of the City of London, the Council of the Isles of Scilly, a county borough council, and a Passenger Transport Board.

(5) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (attendance and evidence at, and costs of, inquiries) shall apply to an inquiry held under subsection (1) above; but—

- (a) in its application by virtue of this subsection, section 250(4) shall have effect with the omission of the words “and any amount” onwards, and
- (b) the power to make an order as to costs under section 250(5) as applied by this subsection shall be exercisable not only where the inquiry takes place but also where arrangements are made for it but it does not take place.

(6) Subsections (4) and (5) of section 250 of the Local Government Act 1972 (costs) shall apply in relation to proceedings under subsection (2) above as they apply in relation to an inquiry under subsection (1) above.

## **16 Special parliamentary procedure**

(1) An order under section 1 or 3 above authorising a compulsory purchase shall be subject to special parliamentary procedure to the same extent as it would be, by virtue of section 18 or 19 of the Acquisition of Land Act 1981 (or by virtue of paragraph 5 or 6 of Schedule 3 to that Act) (National Trust land, commons etc), if the purchase were authorised by an order under section 2(1) of that Act.

(2) In section 3 of the Statutory Orders (Special Procedure) Act 1945 (petitions against orders subject to special parliamentary procedure), (4A) shall be amended to read as follows—

“(4A) The Chairmen shall not certify that a petition is proper to be received if the order to which it relates is made under sections 4, 5, 6, 7 or 8 of the Transport and Works Act 2023 and either—

- (a) the petition is a petition of general objection and the order relates to proposals which have been approved by each House of Parliament in accordance with section 12 of that Act, or
- (b) the petition is a petition for amendment and any of the amendments asked for would in the opinion of the Chairmen be inconsistent with such proposals.”

(3) In relation to an order under section 1 or 3 above which is subject to special parliamentary procedure—

- (a) section 17(5) below shall not apply,
- (b) section 31 below shall not apply if the order is confirmed by Act of Parliament under section 6 of the Statutory Orders (Special Procedure) Act 1945, and
- (c) in any other case, section 31(1) below shall have effect as if for the reference to the day on which the notice required by section 22(1)(b) is published there were substituted a reference to the day on which the order comes into operation under the Statutory Orders (Special Procedure) Act 1945.

## **17 Making or refusal of orders under sections 4, 5, 6, 7 or 8**

(1) Where an application has been made to the Secretary of State, devolved minister or local authority under section 10 above, or he proposes to make an order by virtue of section 11 above, and (in either case) the requirements of the preceding provisions of this Act in relation to any objections have been satisfied, they shall determine—

- (a) to make an order under sections 4, 5, 6, 7 or 8 above which gives effect to the proposals concerned without modifications, or
- (b) to make an order which gives effect to those proposals with modifications, or
- (c) not to make an order.

(2) Where an application has been made to the Secretary of State, devolved minister or local authority under section 10 above and he considers that any of the objects of the order applied for could be achieved by other means, he may on that ground determine not to make the order (but this subsection is without prejudice to subsection (3) below).

(3) The power of the Secretary of State, devolved minister or local authority to make a determination under subsection (1) above includes power to make a determination in respect of some only of the proposals concerned, while making a separate determination in respect

of, or deferring consideration of, others (and accordingly the power to make an order under section 4, 5, 6, 7 or 8 above includes power to make two or more orders on the same application).

(4) Where the Secretary of State, devolved minister or local authority proposes to make an order which gives effect to the proposals concerned with modifications which will in their opinion make a substantial change in the proposals—

(a) they shall notify any person who appears to him to be likely to be affected by the modifications,

(b) they shall give that person an opportunity of making representations to them about the modifications within such period as he may specify in the notice, and

(c) they shall before making the order consider any representations duly made to them.

(5) An order under sections 4, 5, 6, 7 or 8 above shall come into operation on the date on which the notice required by subsection (1)(b) of section 22 below is first published, or on such later date, if any, as may be specified in the order.

(6) This section is subject to sections 18 to 20 (which make provision about the consideration of applications or proposals for EIA orders and the making of such orders).

## **18 Environmental impact assessment: definitions**

(1) This section defines certain terms used in this Part.

(2) “The EIA Directive” means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment.

(3) “EIA information”, in relation to an application under section 6, or proposal under section 7, for an EIA order, means—

(a) the environmental statement,

(b) any other information which the Secretary of State reasonably requires for the purpose of reaching a reasoned conclusion (see section 19), and

(c) any representations made by any person about the environmental effects of the proposed works or other projects.

(4) “EIA order” means an order authorising works or other projects—

(a) which are—

(i) in a class listed in Annex I to the EIA Directive, or

(ii) in a class listed in Annex II to the EIA Directive and, by virtue of their nature, size or location, likely to have significant effects on the environment, and

(b) which are not exempt works.

(5) For the purposes of subsection (4), works or other projects are exempt if the Secretary of State directs or decides (in accordance with rules made under section 10) that an environmental impact assessment is not required in respect of those works or projects.

(6) “Environmental statement” means a statement which, by rules under section 6, is required—

- (a) to accompany an application for, or be prepared in connection with the publication of a proposal to make, an EIA order, and
- (b) amongst other matters, to set out the likely significant effects of the implementation of the EIA order applied for or proposed on the environment.

(7) “Reasoned conclusion” means a reasoned conclusion under section 19(1)(b).

### **19 Application or proposal for an EIA order: reasoned conclusion**

(1) Before making a determination under section 13(1) in respect of an application or proposal for an EIA order, the Secretary of State—

- (a) must consider the EIA information, and
- (b) following that consideration, must reach a reasoned conclusion about the likely significant effects of the proposed works or other projects on the environment.

(2) The Secretary of State must obtain such expert advice as appears to the Secretary of State to be necessary for the purposes of considering the environmental statement.

(3) When making a determination under section 17(1) in respect of an application or proposal for an EIA order, the Secretary of State must take into account the reasoned conclusion.

(4) But the Secretary of State may determine to make an EIA order (whether with or without modifications) only if satisfied that the reasoned conclusion is up to date.

### **20 EIA orders: monitoring measures and remedial action**

(1) If the Secretary of State proposes to make an EIA order (whether with or without modifications), the Secretary of State must consider whether monitoring of the significant adverse effects of the works or other projects on the environment to be authorised by the order is appropriate and, if so, must consider—

- (a) whether it is appropriate to impose a monitoring measure, and
- (b) whether it is appropriate to impose a requirement to take remedial action.

(2) In this section, “monitoring measure”, in relation to proposed works or other projects, means a requirement to monitor any significant adverse effects of the works or projects on the environment.

(3) For the purposes of subsection (1)(a), the Secretary of State must take into account any monitoring arrangements which are required to be carried out under the law of any part of the United Kingdom (other than a provision [F29which implemented] the EIA Directive).

(4) The Secretary of State may impose a monitoring measure or a requirement to take remedial action in the EIA order or, if the Secretary of State gives a direction under section

90(2A) of the Town and Country Planning Act 1990 on the making of the EIA order, by way of condition specified in that direction.

(5) But the Secretary of State may impose a monitoring measure only if satisfied that the type of parameters which will be required to be monitored and the duration of such monitoring are proportionate having regard to—

- (a) the nature, location and size of the proposed works or other projects, and
- (b) the significance of the effects of the works or other projects on the environment.

## **21 Application or proposal for an EIA order: time limit**

The Secretary of State must make a determination under section 18(1) in relation to an application or proposal for an EIA order within a reasonable period of time having regard to the nature and complexity of the works or other project to which it relates beginning on the day on which the Secretary of State has all of the information necessary to reach the reasoned conclusion.

## **22 Publicity for making or refusal of orders**

(1) As soon as practicable after making a determination under section 17(1) above, the Secretary of State must—

- (a) give notice of the determination to the persons specified in subsection (2),
- (b) publish a notice of the determination in the London Gazette, and
- (c) if it relates to an EIA order, make a notice of the determination available on a website maintained by or on behalf of the Secretary of State.

(2) The specified persons are—

- (a) the person (if any) who applied for the order;
- (b) any person who made an objection which was referred to an inquiry or hearing in accordance with section 19(3);
- (c) if the determination is that an EIA order is to be made, to any authority the Secretary of State considers is likely to be concerned by the works or other projects authorised by the order because of their specific environmental responsibilities or local and regional competencies.

(3) A notice under subsection (1)(a) above shall give—

- (a) the reasons for the determination and the considerations upon which it is based;
- (b) information about the public participation process; and
- (c) information regarding the right to challenge the validity of the determination and the procedures for doing so.

(4) A notice under subsection (1)(b) above shall state—

- (a) the terms of the determination;
- (b) that the notice under subsection (1)(a) above gives the information referred to in subsection (2)(a) to (c) above; and
- (c) where copies of the notice under subsection (1)(a) above may be obtained.

(5) A notice under subsection (1) above of a determination to make an order shall give such particulars of the terms of the order as the Secretary of State considers appropriate, and in particular shall (except where the order is made by virtue of section 7 above) state the name and address of the person who applied for the order.

(6) Where a determination under section 18(1) above relates to an application or proposal to which this subsection applies for an EIA order, the notices under subsection (1) above shall state that, before the Secretary of State made the determination—

- (a) he considered the environmental statement complied with sections 18 to 20, and
- (b) he complied with any obligations under section 14 above in respect of any objection made in accordance with rules under that section which relates to the environmental statement, and
- (c) he considered, or referred to an inquiry under section 24(1) above or a person appointed under section 24(2), any representation duly made to him (other than an objection) which relates to the environmental statement.

If, in a case where subsection (6) has effect, an order is to be made, the notices under subsection (1) shall also contain a description of the main measures to avoid, reduce and, if possible, remedy the major adverse environmental effects.

(7) If an EIA order is to be made—

- (a) the notice under subsection (1)(a) must also include the address of the website on which it is to be made available under subsection (1)(c), and
- (b) the notices under subsection (1)(a) and (c) must include the information specified in subsection (8).

(8) The specified information is—

- (a) in so far as they relate to the likely significant effects of the proposed works or other projects on the environment, a summary of —
  - (i) the results of any consultation undertaken in accordance with rules made under section 10 (including in particular any comments made by, or the authorities in or public of, Member State), and
  - (ii) any objections made in accordance with rules made under section 10,
- (b) a summary of how those results and objections have been taken into account in making the determination,
- (c) the reasoned conclusion,
- (d) a description of any features of the works or other projects, or measures, to avoid, prevent or reduce and, if possible, offset any likely significant adverse effects of the works or other projects on the environment, and
- (e) a statement of any monitoring measures, requirements to take remedial action or other conditions relating to the likely significant effects of the proposed works or other projects on the environment that are imposed.

(9) Subsection (6) above applies to any application under section 10 above for an order, and any proposal to make an order by virtue of section 11 above, where the order would authorise—

- (a) works or other projects in a class listed in Annex I to Council Directive 85/337/EECF39 on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive 97/11/EC, or



(b) works or other projects in a class listed in Annex II to that Directive as so amended which are, by virtue of their nature, size or location, likely to have significant effects on the environment.

(10) The Secretary of State shall send a copy of any notice to which subsection (6) above applies to any person who made—

- (a) an objection to which paragraph (b) of that subsection refers, which was not referred to an inquiry or hearing in accordance with section 15(3) above, or
- (b) a representation to which subsection (6)(c) above refers.

(11) For the purposes of subsection (3A) above, “environmental statement” means a statement—

- (a) which is required by virtue of rules made under section 6 above—
  - (i) to accompany an application under that section for an order; or
  - (ii) to be prepared in connection with the publication of a notice of a proposal to make an order by virtue of section 7 above, and
- (b) which sets out particulars of the likely impact on the environment of the implementation of the order applied for or proposed.

(12) Where the Secretary of State makes a determination under section 17(1) above, the appropriate person shall publish a notice in a local newspaper circulating in the area, or in each of the areas, in which the relevant proposals are or were intended to have effect; and such notice shall state the information referred to in subsection (4)(a) to (c) above.

(13) In subsection (4)—

- (a) in relation to an application for an order under section 1 or 3 above—
  - (i) “appropriate person” means the person who applied for the order;
  - (ii) “relevant proposals” means the proposals contained in the application;
- (b) in relation to a proposal to make an order by virtue of section 7 above—
  - (i) “appropriate person” means the Secretary of State;
  - (ii) “relevant proposals” means the proposals contained in the draft order prepared by the Secretary of State pursuant to section 7.

(14) As soon as practicable after the making of an order under section 4, 5, 6, 7 or 8 above, the person who applied for the order (or, where the order is made by virtue of section 11 above, the Secretary of State) shall—

- (a) deposit in the office of the Clerk of the Parliaments a copy of the order, and of any plan or book of reference prepared in connection with the application (or proposed order), and
- (b) deposit with each of the councils mentioned in subsection (15) below in whose area works authorised by the order are to be carried out a copy of each of those documents, or of so much of them as is relevant to those works.

(15) Where a plan or book of reference is revised before the order is made, the reference in subsection (14)(a) above is to the latest version.

(16) The councils referred to in subsection (14) above are district councils, London borough councils and the Common Council of the City of London but are, in relation to Wales, county councils and county borough councils.

(17) A council with which documents are deposited in accordance with subsection (14) above shall make them available for inspection free of charge at all reasonable hours.

### **23 Compulsory acquisition: notice requirements**

(1) This section applies where the appropriate national authority has determined under section 17(1) to make an order under sections 4, 5, 6, 7 or 8—

- (a) authorising the compulsory acquisition of land in England or Wales, and
- (b) applying Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981 to the acquisition.

(2) As soon as practicable after the appropriate national authority has made the determination, the acquiring authority must give a notice to any person who, if Part 2 of the Acquisition of Land Act 1981 applied to the acquisition, would be entitled to a notice under section 12 of that Act (notice to owners, lessees and occupiers).

(3) The notice must—

- (a) contain a statement about the effect of Parts 2 and 3 of the Compulsory Purchase (Vesting Declarations) Act 1981, and
- (b) invite any person who would be entitled to claim compensation if a declaration were executed under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 to give the acquiring authority information about the person's name, address and interest in land, using a form set out in the notice.

(4) The statement referred to in subsection (3)(a) must be the same as the relevant statement prescribed under—

- (a) section 15(4)(e) of the Acquisition of Land Act 1981, where the determination was made following an application, or
- (b) paragraph 6(4)(e) of Schedule 1 to that Act, where the determination was made otherwise than following an application,

subject to any necessary modifications.

(5) The form mentioned in subsection (3)(b) must be the same as the relevant form that is prescribed under—

- (a) section 15(4)(f) of the Acquisition of Land Act 1981, where the determination was made following an application, or
- (b) paragraph 6(4)(f) of Schedule 1 to that Act, where the determination was made otherwise than following an application,

subject to any necessary modifications.

(6) The acquiring authority must send a copy of the notice to the Chief Land Registrar and it shall be a local land charge in respect of the land in England or Wales to which it relates.

(7) For the purposes of subsections (4) and (5), a statement or a form is “relevant”—

- (a) where the order under section 1 or 3 is made by the Welsh Ministers, if it was prescribed by the Welsh Ministers, or
- (b) where the order under section 1 or 3 is made by the Secretary of State, if it was prescribed by the Secretary of State.

(8) In this section—

the “acquiring authority” means the person authorised to carry out the compulsory acquisition, and the “appropriate national authority” means—

- (a) where an order authorises the compulsory acquisition of land wholly in England, the Secretary of State,
- (b) where an order authorises the compulsory acquisition of land in both England and Wales, the Secretary of State, and
- (c) where an order authorises the compulsory acquisition of land wholly in Wales, the Welsh Ministers.

## **24 Assimilation of procedures**

(1) This section applies to applications made under section 10 above relating to proposals for the purposes of which the giving of a consent, permission or licence under any enactment, or the making or confirmation of an order under any enactment, is required.

(2) The Secretary of State may make regulations for securing that, where the requirement referred to in subsection (1) above would not be removed by the order to which the application relates—

- (a) the procedure for obtaining, or otherwise relating to, the consent, permission, licence, order or confirmation, and
  - (b) the procedure relating to the application made under section 6 above,
- are wholly or partly assimilated (and in particular that proceedings relating to the one may be held concurrently with proceedings relating to the other).

(3) Regulations under this section may include provision—

- (a) excluding or modifying the application of any enactment;
- (b) authorising the Secretary of State to give directions or take such other steps as may be appropriate for the purpose of securing the object mentioned in subsection (2) above.

(4) The power to make regulations under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) This section shall apply to proposals by the Secretary of State to make orders by virtue of section 11 above as it applies to applications under section 10 above.

## **25 Town and country planning**

(1) In section 90 of the Town and Country Planning Act 1990 (which gives power to deem planning permission to be granted in certain cases where development is authorised by a government department) after subsection (2) there shall be inserted—

“(2A) On making an order under section 4, 5, 6, 7 or 8 of the Transport and Works Act 2023 which includes provision for development, the Secretary of State may direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.”

(2) In Schedule 13 to the Town and Country Planning Act 1990 (blighted land) after paragraph 22 there shall be added—

“23 Land—

- (a) the compulsory acquisition of which is authorised by an order under section 4, 5, 6, 7 or 8 of the Transport and Works Act 2023, or
- (b) which falls within the limits of deviation within which powers of compulsory acquisition conferred by such an order are exercisable, or
- (c) which is the subject of a proposal, contained in an application made in accordance with rules under section 10 of that Act or in a draft order prepared under section 11(3) of that Act, that it should be such land.”

## **26 Listed buildings and conservation areas**

In section 12 of the Planning (Listed Buildings and Conservation Areas) Act 1990 amend (3A) to read as follows—

“(3A) An application for listed building consent shall, without any direction by the Secretary of State, devolved ministers or local authority, be referred to the Secretary of State, devolved ministers or local authority instead of being dealt with by the local planning authority in any case where the consent is required in consequence of proposals included in an application for an order under sections 4, 5, 6, 7 or 8 of the Transport and Works Act 2023.”

## **27 Hazardous substances**

In section 12 of the Planning (Hazardous Substances) Act 1990 (which gives power to deem hazardous substances consent to be granted in certain cases) amend (2A) to read as follows—

“(2A) On making an order under sections 4, 5, 6, 7 or 8 of the Transport and Works Act 2023 which includes any provision that would involve the presence of a hazardous substance in circumstances requiring hazardous substances consent, the Secretary of State, devolved ministers or local authority may direct that hazardous substances consent shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.”

## **28 Coast Protection Act 1949**

In section 35 of the Coast Protection Act 1949 (which excepts certain operations from the requirement to obtain the Secretary of State’s consent under section 34) in subsection (1), subsection (h) is to be amended to read as follows—

“(h) any operations authorised by an order under section 4, 5, 6, 7 or 8 of the Transport and Works Act 2023.”

## **29 Power to apply for, or object to, orders**

(1) A body which has power to promote or power to oppose Bills in Parliament shall also have power to apply for, or as the case may be power to object to, orders under sections 4, 5, 6, 7 and 8 above.

## **30 Transport Consultative Committees**

(1) In section 56 of the Transport Act 1962 (which establishes a Central Transport Consultative Committee and Area Transport Users Consultative Committees) after subsection (6) there shall be inserted—

“(6A) An Area Committee may consider, and if they think fit object to, any proposal for the discontinuance of railway services made in an application for an order under section 1 of the Transport and Works Act 1992 or made by the Secretary of State by virtue of section 7 of that Act.”

(2) In section 41 of the London Regional Transport Act 1984 (which provides for the London Regional Passenger Committee to be treated as an Area Transport Users Consultative Committee for certain purposes) in subsection (2)(c) for “(7)” there shall be substituted “(6A)”.

## **31 Validity of orders under section 4, 5, 6, 7 or 8.**

(1) If a person aggrieved by an order under section 4, 5, 6, 7 or 8 above desires to question the validity of it, or of any provision contained in it, on the ground—

- (a) that it is not within the powers of this Act, or
- (b) that any requirement imposed by or under this Act or the Tribunals and Inquiries Act has not been complied with,

he may, within the period of 42 days beginning with the day on which the notice required by section 22(1)(b) above is published, make an application for the purpose to the High Court.

(2) On any such application, the court—

- (a) may by interim order suspend the operation of the order, or of any provision contained in it, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings, and
- (b) if satisfied that the order or any provision contained in it is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any requirement imposed by or under this Act or the Tribunals and Inquiries Act, may quash the order or any provision contained in it, either generally or in so far as it affects any property of the applicant.

(3) Subject to subsections (1) and (2) above, an order under section 4, 5, 6, 7 or 8 above shall not, either before or after it has been made, be questioned in any legal proceedings whatever.

## **32 Exercise of Secretary of State’s functions by appointed person.**

(1) The Secretary of State, devolved ministers or a local authority may by regulations prescribe classes of application which are to be dealt with by a person appointed by the Secretary of State, devolved ministers or a local authority for the purpose instead of by the Secretary of State, devolved ministers or a local authority.

(2) The Secretary of State, devolved ministers or a local authority may if he thinks fit direct that an application which would otherwise fall to be determined by an appointed person shall be determined by the Secretary of State, devolved ministers or a local authority.

(3) Subject to subsection (4) below, a person appointed under this section shall have in relation to the application—

(a) the same powers and duties as the Secretary of State, devolved ministers or a local authority has under section 4, 5, 6, 7 or 8 above, and

(b) such other powers and duties conferred on the Secretary of State, devolved ministers or a local authority under or by virtue of this Part of this Act as may be specified in the regulations;

and for that purpose any reference in any Act or instrument (including this Act and any instrument made under it) to the Secretary of State, or to anything done or authorised or required to be done by or to the Secretary of State, shall be construed, so far as the context permits and subject to regulations under this section, as a reference to that person.

(4) Any reference in any Act or instrument (including this Act and any instrument made under it) to the Secretary of State, or to anything done or authorised or required to be done by or to the Secretary of State, shall be construed, so far as the context permits and subject to regulations under this section, as a reference to the devolved minister or local authority.

(4) An order made on an application dealt with by a person appointed under this section shall not authorise the compulsory acquisition of land, or the compulsory creation or extinguishment of rights over land (including rights of navigation over water).

(5) Where an application has been dealt with by a person appointed under this section, any order made by him under section 4, 5, 6, 7 shall be treated as made by the Secretary of State, devolved ministers or a local authority.

(6) At any time before the appointed person has determined the application the Secretary of State, devolved ministers or a local authority may—

(a) revoke their appointment, and

(b) appoint another person under subsection (1) above to deal with the application instead;

and where such a new appointment is made the consideration of the application shall begin afresh, except to the extent that regulations under this section provide otherwise.

(7) If the Secretary of State, devolved ministers or a local authority exercises the power conferred on him by subsection (6)(a) above, they shall give reasons to the appointed person for revoking his appointment.

(8) Regulations under this section may provide for the giving of publicity to any directions given by the Secretary of State, devolved ministers or a local authority under subsection (2) above and to any appointment made by virtue of subsection (6) above.

(9) The Tribunals and Inquiries Act 1992 shall apply to a local inquiry or other hearing by a person appointed under this section as it applies to a statutory inquiry held by the Secretary of State, devolved ministers or a local authority, but as if in section 10(1) of that Act (statement of reasons for decisions) the reference to any decision taken by the Secretary of State, devolved ministers or a local authority were a reference to a decision taken by an appointed person.

(10) Where a person appointed under this section is an officer of a relevant Department, devolved department or ministry or a local authority his functions shall be treated for the purposes of the Parliamentary Commissioner Act 1967 if he was appointed by the Secretary of State, devolved minister or local authority for the time being having general responsibility in relevant matters in relation to England, as functions of the relevant authority.

(11) The power to make regulations under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **33 Private legislation procedure in Scotland.**

In section 1 of the Private Legislation Procedure (Scotland) Act 1936 (which requires the promotion of Provisional Orders rather than Private Bills in connection with powers relating to Scotland), in subsection (4) (which provides an exception from the requirement in certain cases relating to Scotland and elsewhere if the promotion of a Private Bill would be more appropriate than the promotion of a Private Bill and a Provisional Order) after the words “Provisional Order” there shall be inserted the words “(or a Provisional Order and an order under section 4, 5, 6, 7 or 8 of the Transport and Works Act 2023.)”.

### **34 Crown land**

(1) If the appropriate authority agrees—

(a) an interest which—

(i) subsists in land in which there is a Crown or Duchy interest, but

(ii) is not itself a Crown or Duchy interest,

may be acquired compulsorily by virtue of an order under section 1 or 3 above, and

(b) any provision of this Act or of such an order (other than a provision by virtue of which an interest in land is compulsorily acquired) may apply in relation to land in which there is a Crown or Duchy interest.

(2) In this section “Crown or Duchy interest” means an interest belonging to His Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, or belonging to a government department, or held in trust for His Majesty for the purposes of a government department.

(3) In this section “the appropriate authority” means—

- (a) in the case of land belonging to His Majesty in right of the Crown and forming part of the Crown Estate, the Crown Estate Commissioners;
- (b) in the case of other land belonging to His Majesty in right of the Crown, the government department having the management of the land or the relevant person;
- (c) in the case of land belonging to His Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;
- (d) in the case of land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints;
- (e) in the case of land belonging to a government department or held in trust for His Majesty for the purposes of a government department, that department.

(4) In subsection (3), “relevant person”, in relation to any land to which section 90B(5) of the Scotland Act 1998 applies, means the person who manages that land.

(5) If any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

## **SCHEDULE 1**

### **Matters within sections 4, 5, 6, 7 and 8**

1 The construction, alteration, repair, maintenance, demolition and removal of railways, tramways, trolley vehicle systems and other transport systems within section 1(1) of this Act, waterways, roads, watercourses, buildings and other structures.

2 The carrying out of any other civil engineering or other works.

3 The acquisition of land, whether compulsorily or by agreement.

4 The creation and extinguishment of rights over land (including rights of navigation over water), whether compulsorily or by agreement.

5 The abrogation and modification of agreements relating to land.

6 The conferring on persons providing transport services of rights to use systems belonging to others.

7 The protection of the property or interests of any person.

8 The imposition and exclusion of obligations or of liability in respect of any acts or omissions.

9 The making of agreements to secure the provision of police services.

10 The carrying out of surveys and the taking of soil samples.

11 The payment of compensation.



12 The charging of tolls, fares (including penalty fares) and other charges, and the creation of summary offences in connection with non-payment (or in connection with a person's failure to give his name or address in accordance with provisions relating to penalty fares).

13 The making of byelaws by any person and their enforcement, including the creation of summary offences.

14 The payment of rates.

15 The transfer, leasing, discontinuance and revival of undertakings.

16 The submission of disputes to arbitration.

17 The imposition of requirements to obtain the consent of the Secretary of State.