

**EXPLANATORY MEMORANDUM TO
THE PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)
REGULATIONS (NORTHERN IRELAND) 2017**

2017 No. 83

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Infrastructure to accompany the Statutory Rule 2017 No. 83 which is laid before the Northern Ireland Assembly.

1.2 The statutory rule is made under section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.

1.3 The rule is due to come into operation on 16 May 2017.

2. Purpose

2.1 These Regulations revoke and replace the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015. They are being made to transpose changes made to EU Directive 2011/92/EU¹ (“the EIA Directive”) by EU Directive 2014/52/EU² (“the amended EIA Directive”).

3. Background

3.1 The EIA Directive aims to ensure that a planning authority granting planning permission for a development proposal makes its decision with the full knowledge of any likely significant effects on the environment by setting out a procedure known as environmental impact assessment to assess such effects.

3.2 The amended EIA Directive was introduced primarily to simplify the rules for assessing the potential significant negative effects of projects on the environment. It is intended to lighten unnecessary administrative burdens, reinforce the quality of decision-making, improve current levels of environmental protection and introduce a more harmonised regulatory framework, with a view to making business decisions on public and private investments more sound, more predictable and sustainable in the longer term.

4. Key Changes

4.1 The screening procedure, determining whether an EIA is required, is strengthened through new information requirements and a revision of the selection criteria to be considered when making decisions. The amended EIA

¹ OJ No. L 26, 28.1.2012, p.1-21.

² OJ No. L 124, 25.4.2014, p. 1.

Directive also clarifies that only those developments with likely significant negative environmental effects should be subject to an assessment.

4.2 The environmental factors to be considered in the assessment have been refined and broadened to reflect emerging challenges that are important to the EU as a whole in areas such as resource efficiency, climate change, biodiversity and disaster prevention.

4.3 The information to be contained with an Environmental Statement to accompany and application for planning permission has been revised and clarified to improve the quality and content. The Environmental Statement must be based on the scoping opinion from the planning authority where one was provided.

4.4 Environmental Statements are to be prepared by competent experts and planning authorities are to have access to sufficient expertise to examine and assess the statements.

4.5 The grounds for planning permission decisions must be clear and considered and reasons for determinations and decisions must be provided and shared with the public. In addition, planning authorities need to prove their objectivity to avoid conflicts of interest.

4.6 Administrative burdens will be reduced and processes streamlined through the introduction of coordinated procedures when a development also requires assessment under Directive 92/43/EEC³ (“the Habitats Directive”) or under Directive 2009/147/EC⁴ (“the Wild Birds Directive”).

4.7 Monitoring, proportionate to the nature, location and size of the development, may be required to provide assurance that certain developments do not have significant negative effects on the environment.

5. Consultation

5.1 A consultation paper was issued in December 2016 for 8 weeks together with an early draft of the Regulations. The consultation paper was sent to a wide range of bodies on the Department's standard consultation list and was also advertised in local newspapers and on the Department's website. The consultation paper can be found at:

<https://www.infrastructure-ni.gov.uk/consultations/consultation-planning-environmental-impact-assessment-regulations-northern-ireland-2017>

5.2 Substantive responses were received from 47 consultees. The representations came from a range of interests including councils, business groups and environmental groups. This is a satisfactory response level and those who commented can be regarded as a reasonable cross-section of interested opinion. The range of responses indicated broad support for the Department's approach to the transposition of the EIA Directive with many

³ OJ. No. L 206, 22.7.1992, p.7.

⁴ OJ No. L 20, 26.1.2010, p.7

respondents welcoming the proposals. The responses and an analysis of them will be made available shortly after the Regulations are made.

6. Equality Impact

6.1 An Equality Impact Assessment screening carried out in respect of this proposal found no evidence of any additional impact on any Section 75 categories.

7. Regulatory Impact

7.1 A Regulatory Impact Assessment has been prepared and a copy may be accessed at <https://www.infrastructure-ni.gov.uk/>

8. Financial Implications

8.1 The main direct financial costs arising from transposing the Directive fall to developers in commissioning consultants to prepare an Environmental Statement. These costs are unlikely to change significantly. As the amended EIA Directive streamlines the already established requirements in relation to EIA, it is considered by the Department for Infrastructure that this may reduce costs as necessary environmental information will be more readily available and amendments will support greater predictability in decision-making. There may also be small overall savings through fewer, and in some cases shorter, environmental statements.

The Department is of the opinion that the resources required to fully implement the amended EIA Directive would be similar to the resources required to fully implement the 2011/92/EU Directive and this would include administrative matters, however, these administrative costs could rise during the ‘familiarisation’ period.

9. Section 24 of the Northern Ireland Act 1998

9.1 The Department considers that the legislation complies with the requirements of Section 24 of the Northern Ireland Act 1998.

10. EU Implications

10.1 The Regulations secure compliance with Council Directive 2011/92/EU, as amended by Council Directive 2014/52/EU on the assessment of the effects of certain public and private projects on the environment.

11. Parity or Replicatory Measure

11.1 The amendments to the EIA Directive are being implemented separately in England, Scotland, Wales and Northern Ireland.

12. Additional Information

Contact

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