

DEPARTMENT OF AGRICULTURE, ENVIRONMENT AND RURAL AFFAIRS

TRANSPOSITION NOTE FOR DIRECTIVE 2014/52/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE 2011/92/EU ON THE ASSESSMENT OF THE EFFECTS OF CERTAIN PUBLIC AND PRIVATE PROJECTS ON THE ENVIRONMENT

1. This transposition note sets out how Directive 2014/52/EU (“the 2014 Directive”), which amends Directive 2011/92/EU on the assessment of certain public and private projects on the environment (“the EIA Directive”), is transposed in respect of water management projects for agriculture, including irrigation projects, in Northern Ireland.
2. The table shows how the main elements of the 2014 Directive are transposed in the Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 (“the 2017 Regulations”).
3. References in the table to regulations are to the 2017 Regulations.

Articles	Description	Implementation
1(1)	<p>Article 1(1) amends Article 1 of the EIA Directive by adding a definition for ‘environmental impact assessment’, replacing paragraph 3 (which relates to the non application of the Directive in certain cases relating to defence and civil emergencies) and deleting paragraph 4.</p>	<p>Definition of ‘environmental impact assessment’ has been included in regulation 2.</p> <p>Regulation 3(5) sets out that a project may be exempt from the provisions of the regulations if it has response to a civil emergency as its sole purpose.</p>
1(2)	<p>Article 1(2) of the 2014 Directive amends Article 2 of the EIA Directive by replacing paragraphs 1 to 3. Paragraph 1 relates to a requirement for an environmental assessment being carried out in respect of development proposals which will have significant effects on the environment.</p> <p>Paragraph 2 relates to ensuring that an environmental impact assessment (EIA) is integrated into the existing procedures for granting development consent in respect of projects or other procedures to be established to comply with the aims of the Directive.</p> <p>Paragraph 3 relates to ensuring that joint or co-ordinated procedures are provided for where obligations to carry out assessments arise from other Directives as well as this one.</p> <p>Article 1(2) also replaces part of paragraph 4 (in relation to exempting projects from the provisions laid down in this Directive) and adds a further paragraph (5) similar to paragraph 4 in relation to exempting projects adopted by a specific act of national legislation from public consultation provided the objectives of the EIA Directive are met.</p>	<p>‘Co-ordinated’ procedures are provided for in regulation 5. The Department is required to coordinate assessments under these Regulations and certain assessments required under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995.</p> <p>Regulations 6 and 8 provide that the Department and applicants for relevant projects take into account the results of other environmental assessments carried out pursuant to Union legislation.</p> <p>Regulation 3(4) provides for the exemption of specific projects in exceptional circumstances.</p>
1(3)	<p>Article 1(3) of the 2014 Directive replaces Article 3 of the EIA Directive which identifies the factors</p>	<p>Incorporated in regulation 4(1) and 4(2).</p>

	and effects that need to be described and assessed.	
1(4)	<p>Article 1(4) of the 2014 Directive replaces paragraphs 3 and 4 of Article 4 of the EIA Directive which relate to setting thresholds or criteria to determine when projects need not undergo either a determination or EIA (3) and the detailed list of info to be provided for a determination (4).</p> <p>Article 1(4) also adds in two new paragraphs into Article 4 of the EIA Directive which relates to the competent authority making determinations for establishing whether a project is a relevant project for which an EIA needs to be carried out.</p>	<p>Regulation 3 specifies that a project is only a relevant project if it is a water management project for agriculture which would be likely to have significant effects on the environment by virtue, inter alia, of its nature, size or location and involves the abstraction, diversion or impoundment of more than 200 cubic metres of water in any period of 24 hours and is not covered under other relevant EIA legislation covering drainage and planning.</p> <p>Regulation 6 includes a requirement to take into account other environmental assessments. Regulation 6 also specifies that applicants may provide detail on the measures to avoid, prevent or reduce the significant effects on the environment.</p> <p>The detailed list of information to be provided to the Department by the applicant in order to facilitate a determination of whether a project is a relevant project is provided in Schedule 1.</p> <p>Regulation 6 summarises the information that should be included in any determination as to whether a project is to be considered a relevant project. In making this determination the Department is required to take into account the selection criteria set out in Schedule 2. Regulation 6 also requires the Department to take steps to make the results of the determination available to the public and ensure that decisions are taken to make the results of the determination available to the public.</p>
1(5)	<p>Article 1(5) of the 2014 Directive replaces paragraphs 1 to 3 of Article 5 of the EIA Directive.</p> <p>Para 1 sets out the requirements around the info to be provided when an EIA is required.</p> <p>Para 2 relates to the competent authority issuing an opinion on the scope and level of detail of the info to be included by the developer in the EIA report.</p> <p>Para 3 relates to the completeness and quality of an EIA report.</p>	<p>Regulation 8(1), together with Schedule 3, sets out what information needs to be provided in an EIA report. The ref to ensuring that the EIA report is prepared by a competent person is in 8(2) while the Department is required to ensure it has sufficient expertise to examine the information through regulation 8(3). The Regulations allow the Department to seek supplementary information if necessary through regulation 8(14).</p> <p>Regulation 8(5) provides people proposing to make an application for a relevant project with the option of seeking an opinion from the Department on the scope of the content of the EIA report. The Department is required to provide the opinion under regulation 8(6).</p>
1(6)	Article 1(6) of the 2014 Directive amends Article 6 of the EIA Directive.	Regulation 8(4) requires the Department to consult the consultation bodies when it receives an EIA report. Regulation 9 requires

	<p>A new para 1 is inserted - this relates to ensuring that authorities likely to be concerned by a project due to them having specific environmental responsibilities are given the opportunity to express their opinion on info supplied by a developer.</p> <p>Part of para 2 is replaced, relating to informing the public electronically etc of matters relating to the environmental decision making procedures.</p> <p>Para 5 is replaced - this relates to arrangements for informing the public.</p> <p>Para 6 is replaced - this relates to timeframes for informing authorities and the public.</p> <p>A new para is also added around timeframes for consulting the public in respect of the EIA report- this has to be a minimum of 30 days.</p>	<p>the Department to publish specified information on its website and a notice in relevant papers when an EIA report is provided in respect of an application for a relevant project. The Department is also required under regulation 6(13) to make the public aware of any determination as to whether a project is a relevant project.</p> <p>Regulation 9 provides that the timescale for consulting the public shall be 30 days and regulation 10 requires the Department to inform the consultation bodies and public electronically of matters relating to determinations on the granting or refusal of applications within 28 days of a determination on the application.</p>
1(7)	<p>Article 1(7) of the 2014 Directive amends Article 7 of the EIA Directive.</p> <p>Paragraph 4 is replaced – this relates to consultations on transboundary effects.</p> <p>Paragraph 5 is replaced – this relates to determining arrangements relating to timeframes for consultations etc.</p>	<p>Regulations 11 and 12 set out the requirements in respect of projects which are likely to have significant effects on the environment in another EEA state. These include requirements around consulting with the relevant EEA state.</p>
1(8)	<p>Article 1(8) of the 2014 Directive replaces Article 8 of the EIA Directive - this relates to taking into account the results of consultations and info gathered through engagement with any relevant EEA state under Articles 5 to 7 when making a determination as to whether to grant or modify a licence for a relevant project.</p>	<p>Regulations 11 and 12 require the Dept to inform the EEA State of the content of any decision, including any of the conditions attached, the reasons and considerations on which the decision is based and a description of the measures to avoid, reduce and offset the effects of the development.</p>
1(9)	<p>Article 1(9) inserts a new Article (8a) into the EIA Directive. The new Article relates to the information that should be included in a decision to grant or refuse development consent, including any monitoring conditions. This also requires that decisions in terms of granting or refusing consent are taken within a reasonable period of time.</p>	<p>The requirements around the information which has to be provided in respect of determinations as to whether to refuse or grant a project is set out in regulation 10. Regulation 10 requires the Department to take such decisions within a reasonable period of time.</p>
1(10)	<p>Article 9 of the EIA Directive is amended by replacing paragraph 1 - this relates to requirements on the competent authority in terms of informing the public and relevant competent authorities when it makes a decision to grant or refuse development consent.</p>	<p>Requirements around informing the public and consultation bodies of a determination to grant or refuse a project are set out in regulation 10.</p>
1(12)	<p>A paragraph in Article 10 of the EIA Directive is replaced in respect of the obligation on the competent authorities to respect confidentiality laws etc with regard to the publications of information.</p>	<p>Regulation 8(12) includes a requirement that information will not be disclosed within the EIA report where disclosure of that information may be refused under the Environmental Information Regulations</p>

		(Northern Ireland) 2004
1(13)	A new Article (Article 10a) is inserted in the EIA Directive – this relates to Member States laying down rules on penalties applicable to infringements.	The relevant provisions in terms of offences and penalties relating to projects to which the Regulations apply are set out in the Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006.
1(15)	Establishes that the Annexes of the EIA Directive are amended in accordance with the Annex to this Directive.	A new Schedule has been inserted corresponding to Annex IIA. Schedules 2 and 3 have been updated to reflect the revised Annexes III and IV.
Annex	<p>A new Annex (Annex II.A) is inserted into the EIA Directive – this relates to information to be provided by the developer on the projects listed in Annex II.</p> <p>Annexes III and IV of the EIA Directive are replaced.</p> <p>Annex III relates to selection criteria to determine whether the projects listed in Annex II should be subject to an EIA.</p> <p>Annex IV relates to the information to be included in an EIA report.</p>	<p>The Schedules in the Regulations have been updated to reflect wording in new Annexes.</p> <p>Schedule 1 sets out the information which needs to be provided by an applicant for a relevant project whenever they are seeking the Department to make a determination as to whether a project is a relevant project.</p> <p>Schedule 2 sets out the selection criteria which the Department must take into account when determining whether a project is a relevant project.</p> <p>Schedule 3 sets out the information to be included about a proposed project that should be included in an EIA report.</p>