

EXPLANATORY MEMORANDUM TO
The Environmental Impact Assessment (Forestry) (Amendment) Regulations
(Northern Ireland) 2017

SR 2017 No. 86

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs to accompany the Statutory Rule (details above) 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.

2. Purpose

- 2.1. This Statutory Rule amends our existing implementation of Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment ("EIA Directive"). It brings into effect Directive 2014/52/EU amending Directive 2011/92/EU ("2014 Directive"), which amends the EIA Directive.

3. Background

- 3.1. This Statutory Rule amends the EIA (Forestry) Regulations (Northern Ireland) 2006 to transpose amendments to the EIA Directive made by the 2014 Directive.
- 3.2. Insofar as was possible, the 2014 Directive has been transposed by copy-out with additional text inserted where necessary to give clarity.
- 3.3. On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.
- 3.4. The EIA Directives require projects likely to have significant effects on the environment to undergo an environmental impact assessment before being authorised. The EIA Directive has been transposed for forestry projects by the Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2017, as amended. The 2006 Regulations need amending to transpose amendments made to the EIA Directive by the 2014 Directive. The date for transposition is 16 May 2017.
- 3.5. The amendments broadly simplify and clarify the requirements of the EIA Directive whilst improving the level of environmental protection. The key changes made by the 2014 Directive are:
- 3.6. Article 1(2)(g) - a definition of the EIA process;

- 3.7. Article 3- clarification of the environmental factors to be considered as part of the EIA process;
- 3.8. Article 4- applicants must provide results of other assessments on the project's effects on the environment at the screening stage. The applicant can also provide details of mitigating features that avoid/prevent significant adverse effects on the environment. These changes will focus assessments on cases where there is a likelihood of significant effects and reduce the number of projects subject to EIA. The Department will decide if EIA is needed on the basis of the information provided by the developer and taking into account the results of 'preliminary verifications' or assessments. When considering the information provided by the proposer, the Department, as now, must take into account the criteria listed in Annex III which has been amended to provide more clarity about the issues to be considered.
- 3.9. Articles 4(4) and 4(5)- screening decisions must be published and reasons given for why an EIA is needed or not.
- 3.10. Article 4(6)- the Department must make a screening decision as soon as possible and within 90 days from the date the developer provides all the information required.
- 3.11. Article 5(2)- after screening, if a proposed project needs an EIA, it can go through the 'scoping' stage. This is voluntary and allows an applicant to request an opinion from the Department on the scope and level of detail the EIA must address.
- 3.12. Article 6(2) and (5)- notices of projects must be made available electronically, in addition to more traditional methods.
- 3.13. Article 6(6)- a new minimum time for public consultations of at least 30 days. This is an increase from 28 days.
- 3.14. Article 8a- new requirements for information that must be included in an EIA decision (reasoned conclusion, environmental conditions and mitigation features) and, where the decision is to refuse consent, the main reasons for the refusal. A notice of a decision must also include any planned monitoring measures.
- 3.15. Article 5(3)- the environmental statement must be prepared by competent experts. Applicants must provide evidence of this when they submit their EIA for a consent decision. The Department must also have sufficient expertise to assess the environmental statement.

4. Consultation

- 4.1. A consultation was published on 8 March 2017 and closed on 5 April 2017.

5. Equality Impact

- 5.1. Not applicable. This Amendment has been screened out for equality impacts. No impact on any Section 75 group is anticipated

6. Regulatory Impact

- 6.1. A Regulatory Impact Assessment is submitted with this memorandum and will be published alongside the Explanatory Memorandum and transposition note on the legislation.gov.uk website.

7. Financial Implications

- 7.1. There are no additional significant financial implications for industry.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. This Statutory Rule does not have any human rights implications nor or they incompatible with EU law. The Order is therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. This legislation implements Directive 2011/92/EU, as amended by Directive 2014/52/EU.

10. Parity or Replicatory Measure

- 10.1. Similar legislation will implement the Directive in the devolved administrations.

11. Additional Information

- 11.1. Not applicable.