

EXPLANATORY MEMORANDUM TO

The Roads (Environmental Impact Assessment) Regulations (NI) 2017

SR no. 87

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Infrastructure, (DfI) 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. The Regulations will strengthen and enhance the EIA process by providing a high level of protection to the environment which includes the requirement to make the Environmental Statement of a higher quality and content through the introduction of a competent expert to both prepare and assess environmental reports. This measure along with others will contribute to the integration of all environmental considerations into the preparation of projects to reduce their impact on the environment.
- 2.2. The Regulations relate solely to Roads projects meeting the criteria of relevant projects as set out in previous Regulations. An exemption has been included in the Directive for those projects which are solely in response to civil emergencies.

3. Background

- 3.1. The Environmental Impact Assessment Directive first came into force in 1985 as Council Directive 85/337/EEC. It was amended three times in 1997, 2003 and 2009. The 1985 Directive and its three amendments were codified by Directive 2011/92/EU in advance of the European Commission adopting a proposal in October 2012 to amend the current Directive. Following a report on the application and effectiveness of the Directive and a wide public consultation, an amended EU Directive (2014/52/EU) came into force on 15/5/2014 and the Department for Infrastructure is responsible for the proper transposition and implementation into legislation, as part of the UK Member State by 16/5/2017

4. Consultation

- 4.1. Consultation took place between 13 March and 21 April 2017. There were 9 responses, 2 with no comment to make at this time; 5 fully supporting the proposals and offering comment; and the remaining 2 suggesting amendments and seeking clarifications. The suggested changes were largely incorporated into the amending regulations. The report on the consultation process is available on the Department's website

5. Equality Impact

- 5.1. An Equality of Opportunity Screening Analysis Form was completed. The Department does not envisage or consider that there are likely to be any specific negative impacts associated with this policy. There is no evidence that existing or amended Roads EIA legislation will have any impact in terms of equality of opportunity or good relations.

6. Regulatory Impact

- 6.1. A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business. As the amended EIA Directive streamlines the already established requirements in relation to EIA it is considered that this will not have any negative cost implications for businesses and may reduce costs as necessary. Environmental information will be more readily available and amendments will support greater predictability in decision- making.

7. Financial Implications

- 7.1. The Department considers that this amendment will have no impact on the costs of business.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department has carried out a Human Rights Act Screening Analysis and no human rights issues have been identified.

9. EU Implications

- 9.1. This regulation is brought in to transpose 2014/52/EU which came into force on 15 February 2014. It must be transposed by 16 May 2017 in order to avoid infraction.

10. Parity or Replicatory Measure

- 10.1. Directive 2011/92/EU (as amended by 2014/52/EU) is currently being transposed by the other administrations. The Department has tried to transpose in line with the other jurisdictions in as far as the different road building and maintenance regimes allow.

11. Additional Information

- 11.1. These Regulations, which are subject to negative resolution, were made on XX May 2017 and come into operation on 16 May 2017 and therefore breach the 21 Day Rule.
- 11.2. Department officials have been working for some time to bring these Regulations into operation by the 16 May 2017 infraction deadline.
- 11.3. However there have been delays in finalising the wording due to the ongoing discussions between colleagues in England and the Commission, regarding the Pembroke infraction case. It was not until 28 April 17 that we were advised of the wording agreed and to be included by the other jurisdictions. Furthermore given the current political uncertainty it was not clear how these regulations would physically be signed sealed and laid in order to meet the infraction deadline.