

## **EXPLANATORY MEMORANDUM TO**

### **The Drainage (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 (S.R. 2017 No. 88)**

#### **1.0 Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department for Infrastructure to accompany the Regulations (details above) which are laid before the Northern Ireland Assembly.
- 1.2. The Regulations are made under section 2(2) of the European Communities Act (Northern Ireland) 1972 and are subject to negative resolution procedure.

#### **2.0 Purpose**

- 2.1 The Regulations will transpose European Council Directive 2014/52/EU dealing with the assessment of the effects of certain public and private projects on the environment, in respect of certain drainage works and drainage schemes.

#### **3.0 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 negotiations in the European Parliament and Council a compromise text was agreed. The amending directive entered into force on 15 May 2014 (as Directive 2014/52/EU). Member States have to transpose the Directive into domestic legislation by 16 May 2017.
- 3.2 The Directive's main aim is to provide a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation of projects with a view to reducing their impact on the environment. It seeks to ensure that proposals for development (referred to as 'projects' in the directive) which are likely to have a significant effect on the environment by virtue, inter alia, of their nature, size or location are subject to a requirement for development consent and an assessment of those effects before the projects are allowed to proceed.
- 3.3 Where an assessment is required, the developer must provide specified information to the relevant competent authority which enables the authority to make an informed decision on whether the project should proceed in the knowledge of any likely significant effects on the environment. It also requires that the public are consulted and given an opportunity to participate in the decision-making process.
- 3.4 These Regulations seek to transpose the amending Directive 2014/52/EU while consolidating existing Regulations, namely the Drainage (Environmental Impact Assessment) Regulations (Northern Ireland) 2006.

3.5 The key changes to the drainage regulations as a result of the EIA Directive include the following:

- Administrative burdens will be reduced and processes streamlined through the introduction of joint and/or coordinated procedures when proposed drainage works, or drainage schemes also require assessment under the Habitats/Wild Birds Directive.
- 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.
- 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 Directive also clarifies that only those developments with significant environmental effects should be subject to an assessment.
- The information to be contained with the Environmental Statement has been revised and clarified to improve its quality and content.
- Environmental Statements are to be prepared by competent experts and the appropriate Departments are to have access to sufficient expertise to examine and assess the statements.
- The grounds for decisions on proposed drainage works and schemes must be clear and considered and reasons for determinations and decisions must be provided and shared with the public. In addition, the appropriate Departments need to be objective and avoid conflicts of interest.
- Where measures are proposed to offset any significant adverse effects on the environment, monitoring, proportionate to the nature, location and size of the drainage works or scheme and the significance of its effects on the environment will be required. Existing monitoring arrangements may be used to avoid duplication of monitoring and unnecessary costs.

#### **4.0 Consultation**

4.1 The proposals have been subject to consultation with relevant stakeholders whose views have been taken into account in the transposition of the regulations.

#### **5.0 Equality Impact**

5.1 Consideration has been given to section 75 of the Northern Ireland Act 1998. An equality impact screening assessment has been completed which identified no impact on Section 75 groups.

#### **6.0 Regulatory Impact**

6.1 The Department has considered the proposed legislative provisions and has identified no costs associated with the introduction of the legislation and has screened out the requirement for a Regulatory Impact Assessment.

## **7.0 Financial Implications**

7.1 As the proposals are intended to reduce administrative burdens and streamline processes, there are no significant financial implications arising from the proposals.

## **8.0 Section 24 of the Northern Ireland Act 1998**

8.1 Consideration has been given to compliance with section 24 of the Northern Ireland Act 1998. No human rights issues have been identified.

## **9.0 EU Implications**

9.1 These Regulations are necessary to transpose European Council Directive 2014/52/EU in relation to environmental impact assessments for drainage works and schemes. A Transposition Note setting out how the Regulations implement the Directive is annexed to this Explanatory Memorandum.