

EXPLANATORY MEMORANDUM TO

S.R. 2018 No.193

The Harbour Works (Environmental Impact Assessment) (Revocation) Regulations (Northern Ireland) 2018

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Infrastructure 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 (Northern Ireland) 1972 and is subject to negative resolution procedure.

2. Purpose

- 2.1 The Statutory Rule will revoke defunct and superfluous legislative provisions transposing European Directives.

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 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 had to transpose the Directive into domestic legislation by 16 May 2017. In considering the transposition of the amending Directive in regards to harbour works projects, the Department had determined that the need for Environmental Impact Assessment Regulations for such projects were no longer required. With the introduction of the Marine and Coastal Access Act 2009 (“the 2009 Act”), it was evident that any proposals for harbour works would require planning consent pursuant to the Planning (Northern Ireland) Order 2011 (“the 2011 Order”) or a marine licence pursuant to the 2009 Act. Any requirement for the preparation of an Environmental Impact Assessment would be considered and determined through these existing regimes.
- 3.2 In considering the 2009 Act and the 2011 Order, the Department scrutinised any exemptions (specifically the Marine Licensing (Exempted Activities) Order (Northern Ireland) 2011 and the Planning (General Permitted Development) Order (Northern Ireland) 2015) to ensure that there are no circumstances whereby a harbour works project, which would potentially require an Environmental Impact Assessment, would be granted an exemption and we are satisfied that this is the case.
- 3.3 In addition, we contacted the various harbour authorities to ask for their views on whether they would be aware of any gaps in legislation whereby an Environmental Impact Assessment would be missed. They had confirmed that they had never undertaken an Environmental Impact assessment under the

Harbour Works (EIA) Regulations and that any harbour works would require either planning consent and/or a marine licence.

- 3.4 Having taken all matters into consideration, it is the Department's view that the proposed transposition of the Directive is not required and the Department intends to revoke the 2003 and 2007 Regulations. Consequently in line with best practice, the purpose of the proposed draft Regulations is to revoke the now defunct and superfluous Harbour Works (Environmental Impact Assessment) Regulations (Northern Ireland) 2003 and the Harbour Works (Environmental Impact Assessment) (Amendment) Regulations (Northern Ireland) 2007.

4. Consultation

- 4.1 The proposals have been subject to a targeted consultation with interested bodies and no responses were received.

5. Equality Impact

- 5.1 The Department has considered the proposed legislative provisions against the section 75 criteria and the responses to the consultation process and, in conjunction with the Equality Unit, has screened out the requirement for an Equality Impact Assessment in relation to these legislative proposals.

6. 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. Financial Implications

- 7.1 None.

8. Section 24 of the Northern Ireland Act 1998

- 8.1 The proposed Rule has been subject to checks in relation to section 24 and no effects on Community Law or Convention Rights have been identified.

9. EU Implications

- 9.1 The aim of these Regulations is to revoke defunct and superfluous legislative provisions transposing European Directives.

10. Parity or Replicatory Measure

- 10.1 None.

11. Additional Information

- 11.1 Not applicable.