

Rural Needs Impact Assessment Template: Transposition of the Revised Environmental Impact Assessment (EIA) Directive (2014/52/EU)

Step 1: Define the Issue

Key questions to consider:

- *What are the objectives of the strategy, policy plan or service?*
- *What impact do you intend it to have in rural areas?*
- *How is 'rural' defined for the purposes of this policy/strategy/service/plan?*
- *What would constitute a fair rural outcome in this case?*

The EIA directive was introduced in 1985 as a means of ensuring a high level of protection for the environment and human health through the establishment of common minimum requirements for the assessment of the effects of certain projects on the environment during the consenting process. It has been amended on three occasions to date i.e. in 1997, 2003 and 2009. In 2011 the original Directive and its three amendments were consolidated under Directive 2011/92/EU to form one single, transparent and readable piece of legislation (without any change to the original provisions).

On 15 May 2014, following a review of its application and effectiveness, a further amendment to the Directive came into force which Member States had to implement by 16 May 2017. This amendment was introduced primarily to simplify the rules for assessing the potential effects of developments on the environment by: -

- Lightening unnecessary administrative burdens and making it easier to assess potential impacts;
- Reinforcing the quality of decision-making;
- Improving current levels of environmental protection; and
- Introducing a more harmonised regulatory framework, with a view to making business decisions on public and private investments more sound, predictable and sustainable in the longer term.

The Department for Economy (DfE) has considered the need to transpose the provisions of the revised Directive in the context of the Offshore Electricity Development (Environmental Impact Assessment) Regulations (Northern Ireland) 2008 (the '2008 Regulations') which govern environmental consequences related to the consenting process for construction of generating stations (on and offshore) under Article 39 of the Electricity (Northern Ireland) Order 1992 (the '1992 Order'). In doing so, overlaps have been identified with the regulations governing EIA assessment under the marine licensing regime i.e. the Marine Works (Environmental Impact Assessment) Regulations 2007 (the '2007 Regulations') and, as a result advice was sought from the Departmental Solicitors' Office. That advice confirms that the 2007 Regulations satisfy the EIA requirements in relation to offshore electricity developments and that, as such, the 2008 Regulations are not necessary and should be revoked.

The EIA process for the onshore elements of an offshore electricity development (e.g. overhead/underground lines) is covered by the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 (the '2015 Regulations'). As such, any rural areas that might be affected by the onshore aspects of a proposed offshore development would fall into the remit of this legislation. It is considered therefore that revoking the 2008 Regulations will have no negative effects on the ability to assess environmental impacts of offshore developments, including in rural areas.

Step 2: Understand the situation

Key questions to consider

What is the current situation in rural areas?

What evidence (statistics, data, research, stakeholder advice) do you have about the position in rural areas?

If the relevant evidence is not available, can this be sourced?

Do you have access to the views of rural stakeholders about the likely impact of the policy?

Are there existing design features or mitigations already in place to take account of rural needs?

Currently there are only two offshore projects in development in Northern Ireland waters, both of which are to be located off the North Antrim Coast, at Fair Head and Torr Head, close to the rural/coastal towns of Ballycastle and Cushendun.

The Fair Head development has recently submitted applications to the Department of Agriculture, Environment and Rural Affairs (DAERA) for a marine licence and to DfE for Article 39 consent and these are currently under consideration. It is anticipated that it will be 2018/19 before the first phase of this development is completed, with a second phase commencing in 2021 and completing in 2022/23.

The Torr Head development is slightly further advanced (in consenting terms) having received a marine licence (albeit heavily conditioned) in December 2016 and consent for construction and operation under Article 39 of the 1992 Order in June 2017. The project will now be applying for planning permission for the onshore elements of the project from the Department for Infrastructure (DfI) / Local Council. It is anticipated that construction under this project will not commence until 2020/21.

The EIA requirements for both of these projects are considered by DAERA / DfI on behalf of DfE under a Memorandum of Understanding signed in June 2013 and in the context of the 2007 Regulations (as amended) and 2015 Regulations (as amended). This will include the gathering of evidence from numerous stakeholders, including those located in rural areas that could possibly be impacted by the development.

As such, the revocation of the 2008 Regulations is not expected to have any detrimental effect.

Step 3: Develop and appraise options

Key questions to consider

Are there barriers to delivery in rural areas?

If so, how can these be overcome or mitigated?

Will it cost more to deliver in rural areas?

What steps can be taken to achieve fair rural outcomes?

Transposition of EU Directives is mandatory. The only options open to the Department are to transpose the provisions of the Directive into the 2008 Regulations or to revoke them altogether on the understanding that the EIA needs for an offshore development would be adequately covered by the provisions of the 2007 Regulations.

The Department, upon receiving legal advice, has decided to revoke the 2008 Regulations. It does so in the belief that their removal from the Northern Ireland legislature will have no negative impacts on areas affected by offshore electricity developments as the objectives of the EIA Directive will continue to be delivered for such developments through application of the 2007 Regulations (for marine elements) and 2015 Regulations (for land-based elements). This includes the requirement to seek the views of all impacted stakeholders.

Both the 2007 Regulations and the 2015 Regulations have been amended to transpose the new requirements set down by Directive 2014/52/EU and consultations have already taken place on the proposals for doing so.

Step 4: Prepare for Delivery

Key questions to consider

Do the necessary delivery mechanisms exist in rural areas?

Have you considered alternative delivery mechanisms?

What action has been taken to ensure fair rural outcomes?

Is there flexibility for local delivery bodies to find local solutions?

Are different solutions required in different areas?

See 3 above.

Step 5: Implementation & Monitoring

Key questions to consider

Have you set any rural specific indicators or targets to monitor?

How will the outcomes be measured in rural areas?

Are there any statistics or data that you will collect to monitor rural needs and impacts?

Revocation of the 2008 Regulations does not require any specific targets or ongoing monitoring. The environmental impacts of offshore electricity developments will continue to be assessed via the 2007 Regulations (as amended), including for rural areas that are in proximity to the development. Onshore elements of offshore projects (placing of overhead lines, substations etc) will continue to be assessed for environmental impact under the 2015 Regulations (as amended).

Step 6: Evaluation & Review

Key questions to consider

What processes are in place to evaluate and review the implementation of the policy, strategy, plan or service?

Have rural needs been factored into the evaluation process?

How will lessons learned in relation to rural outcomes be used to inform future policy making and delivery?

DfE will continue to participate in the DAERA-Chaired Inter-Departmental Marine Co-ordination Group and, subsequently, in discussions around the outworking of the EIA Directive with a view to identifying any arising issues with regard to the revocation of the 2008 Regulations.

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