

Title: European Directive 2014/52/EU on the assessment of the effects of certain public and private projects on the environment amends Directive 2011/92/EU (the 'Environmental Impact Assessment Directive'). Regulations amending the Environmental Impact Assessment (Agriculture) (England) (No.2) Regulations 2006 IA No: Defra 2094 RPC Reference No: N/A Lead department or agency: Department for Environment, Food and Rural Affairs	Impact Assessment (IA)			
	Date: 30/03/2017			
	Stage: Final			
	Source of intervention: EU			
	Type of measure: Secondary legislation			
Contact for enquiries:				
Summary: Intervention and Options				RPC Opinion: Not Applicable

Cost of Preferred (or more likely) Option					
Total Present Value	Net Present Value	Business Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
£-3.23m		£-3.23m	£0.59m	Not in scope	Non qualifying provision

What is the problem under consideration? Why is government intervention necessary?
European Union Directive 2014/52/EU aims to simplify the rules for assessing the effects of proposals to implement a land use change on parcels of land that are greater than two hectares. It seeks to deliver smarter regulation and reduce the administrative burden, which is considered to be excessive at present. It is desired that this will make business decisions on public and private investments more sound, more predictable and sustainable in the longer term.

What are the policy objectives and the intended effects?
The European Commission sets out the following objectives of European Union Directive 2014/52/EU amendments:

- Adjusting the procedure that determines whether an environmental assessment is needed. This will ensure that only projects with significant environmental impacts are subject to such an assessment.
- Strengthening rules to ensure better decision-making and avoid environmental damage.
- Streamlining the various stages of the Environmental Impact Assessment (EIA) process, by introducing timeframes and a new mechanism to ease the process when several assessments are required and several authorities involved.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 1: (chosen option) to implement the Directive in accordance with the Government's principles for transposing European directives, which is to minimise the impact on business.

Option 2: Do nothing. This would mean maintaining the current Environmental Impact Assessment (Agricultural) (England) (No.2) Regulations 2006 without transposing the requirements of the amended directive. Choosing this option could result in the European Commission initiating infraction proceedings against the UK, potentially leading to fines imposed by the European Court, because of inadequate transposition.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: April 2022				
Does implementation go beyond minimum EU requirements?			No	
Are any of these organisations in scope?			Micro No	Small No
			Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the Minister responsible: George Eustice **Date:** 24th April 2017

Summary: Analysis & Evidence

Policy Option 1

Description: Implement the Directive in accordance with the Government's principles for transposing European directives, which is to minimise the impact on business

FULL ECONOMIC ASSESSMENT

Price Base Year 2016	PV Base Year 2017	Time Period Years 5	Net Benefit (Present Value (PV)) (£m)		
			Low: £-3.26m	High: £-3.79m	Best Estimate: £-3.56m

COSTS (£m)	Total (Constant Price)	Transition Years	Average (excl. Transition) (Constant Price)	Annual (Constant Price)	Total (Present Value)	Cost
Low			£0.58m			£2.92m
High			£0.68m			£3.43m
Best Estimate			£0.63m			£3.23m

Description and scale of key monetised costs by 'main affected groups'

The changes introduced in these new regulations place a requirement on applicants to provide more information about their proposed land use change at an earlier stage in the Environmental Impact Assessment (EIA) process. Also, land managers on common land are no longer exempt from the regulation. The changes are estimated to affect 272 land managers per year, at an average cost of £2,787 per applicant. This estimate includes the cost of undertaking/accessing various surveys and the cost of the land manager's time.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total (Constant Price)	Transition Years	Average (excl. Transition) (Constant Price)	Annual (Constant Price)	Total (Present Value)	Benefit
Low						
High						
Best Estimate						

Description and scale of key monetised benefits by 'main affected groups'

Other key non-monetised benefits by 'main affected groups'

This will ensure that only projects with significant environmental impacts are subject to such an assessment and that these impacts are identified at an earlier stage. Strengthening rules to will help enable better decision-making and avoid environmental damage.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

Key assumptions relate to the number of annual applications and the cost to undertake the assessment, which are based on Natural England data. The application cost assumption varies depending on whether it is assumed a farmer or land manager undertakes the EIA. The impact of this assumption has been explored through sensitivity testing.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m: N/A
Costs: £0.59m	Benefits:	Net: -£0.59m	

Evidence Base

Background to the regulation

European Union Directive 2014/52/EU aims to simplify the rules for assessing the effects of proposals to implement a land use change on parcels of land that are greater than two hectares. It seeks to deliver smarter regulation and reduce the administrative burden, which is considered to be excessive at present. It is desired that this will make business decisions on public and private investments more sound, more predictable and sustainable in the longer term. The European Commission sets out the objectives of European Union Directive 2014/52/EU amendments as the below:

- Adjusting the procedure that determines whether an Environmental Impact Assessment (EIA) is needed. This will ensure that only projects with significant environmental impacts are subject to such an assessment. Projects adapted to reduce their impacts and small-scale projects with local impacts should be approved more swiftly at lower cost, leaving authorities more time to focus on assessments of major projects with large-scale environmental impacts.
- Strengthening rules to ensure better decision-making and avoid environmental damage. Impacts from alternative proposals will need more systematic consideration, and competent authorities will need to explain the reasons behind their decisions more clearly.
- Streamlining the various stages of the EIA process, by introducing timeframes and a new mechanism to ease the process when several assessments are required and several authorities involved. These changes will bring more legal certainty and accelerate the process, without compromising the quality of the assessment.

This impact assessment considers the costs to agricultural businesses only, owing to the scope of the Directive change. It demonstrates that there will be an additional cost for agricultural businesses in complying with the revised regulation to comply. However, it is expected that across all industries the Directive amendment will achieve the above goals of lower business burdens.

Options considered

Two options were considered. Option 1 relates to implementing the Directive in accordance with the Government's principles for transposing European directives. This will ensure compliance with the amended Directive in a way that minimises the impact on business.

Whilst Option 2 consider the status quo of doing nothing. This would mean maintaining the current EIA (Agricultural) (England) (No.2) Regulations 2006 without transposing the requirements of the amended directive. Choosing this option may result in the European Commission initiating infraction proceeding against the UK, potentially leading to fines imposed by the European Court, because of inadequate transposition. Option 1 was chosen over Option 2 due to these reasons.

Impact of option chosen

Under existing regulations when land managers seek to change the use of a land parcel greater than two hectares the decision of whether a full EIA is needed depends on how environmentally significant the land is deemed to be. For this purpose, the quality of the land can fall into two categories: (1) of no interest, (2) uncultivated and/or semi-natural. Land in the second category requires an EIA to assess whether the proposed land use change will lead to detrimental environmental impacts. Land in the former category does not require an EIA.

The changes introduced in Article 4(4) of the new regulations in this Directive will place a requirement on land managers to provide more information about their proposed land use change at an earlier stage of the application – the screening stage. To assess the additional cost burden due to Article 4(4) we need to consider the additional cost imposed upon them beyond existing regulations. This change to regulations will only affect land managers who are a) seeking to apply for a change to land use and b) which fall into the above category. At present, this is expected to affect 268 applicants per year on average¹.

Applicants under the new regulations will need to provide any existing environmental surveys on the parcel of land in question at the screening stage of an application. This will require land managers to search and retrieve any such surveys. It is assumed that under the new regulations the majority of applicants will not find any existing surveys of their land parcel – see Table 1 for more detail. If no survey is found, they will now need to undertake relevant surveys

In addition the proposed option will include changes to the common land exemption. Currently, common land is exempt from undertaking an EIA under the Commons Act 2006 and regulation 3(2)(f) of the Environmental Impact Assessment (Agriculture) Regulations 2006. The proposed option will bring common land within the 2006 regulations, and now require projects on common land for “restricted works” above the thresholds in Schedule 1 of the Environmental Impact Assessment (Agriculture) (England) Regulations 2006 to undertake an EIA before they can be considered for consent under section 38 of the Commons Act 2006. However, it is estimated that this will only increase the number of annual screening applications by four, based on the average number of applications from Common Land that the Planning inspectorate receive per year. Therefore, our average annual total has been estimated to be 272 applications per year.

The largest expected additional cost burden on land managers is the requirement to supply additional information relating to any existing surveys of the land at the screening IA stage and provide surveys if they do not exist. This will involve (1) a resource cost to the land manager (or hired consultant), (2) a cost of searching for surveys using the Local Biodiversity Records Centre (LBRC), plus, for any surveys found (in roughly 8% of all applications), (3) retrieval of existing surveys and (4) an additional cost for undertaking a survey if none exist.

Methodology

1. The time spent by the applicant undertaking an EIA differs according to whether there is or not an existing survey – see Table 3. Natural England data shows that 8% of applicants find existing surveys and we assume this remains the case for future applications. If there are surveys we assume time resources needed by the farmer is 1-day full-time equivalent (FTE), whereas if there are no surveys required we assume this is 0.5 days FTE.

2. Costs also differ according to whether it is the farmer or agent carrying out the search; data exists on this and is within Tables 2 and 3. It is assumed that under the new regulations the split between farmers and agents undertaking the EIA applications will continue to be the same proportion i.e. 54:46. Wage rates used are taken from Defra statistics² and from expert judgement from Environmental Consultants³ both inflated to 2016 prices. Average daily wages costs are estimated to be £164 for farmers and £780 for a land agent. In both cases, gross wage rates are uplifted by the recommended 30% to account for non-wage costs⁴. In total, the time costs owing to searching for and retrieving existing environmental surveys is estimated to be £65,712.

3. Natural England retrieve surveys on behalf of applicants so there is no cost to access surveys, but under the new regulations, this full cost is expected to fall on the applicant. All applicants will need to pay a fee to the Local Biodiversity Records Centre to search for relevant surveys, costing £200 per applicant, which has a cost to business of £60,058.

¹ Based on applications received by Natural England data from 2006-2015

² Farm Labour and Wages statistics 2012

<http://webarchive.nationalarchives.gov.uk/20130123162956/http://www.defra.gov.uk/statistics/files/defra-stats-foodfarm-farmmanage-earnings-labour2012-120627.pdf>

³ Obtained through Natura England call for evidence

⁴ In line with Green book guidance.

4. For those ~10% who do find an existing survey they will need to pay a fee to retrieve this and the fees differ according to the type of survey. Survey access fees are shown in table 4 directly from Natural England. The resulting cost to business of accessing existing surveys is estimated to be £6,310.

5. For those without a survey there will be a requirement to undertake such surveys with an average cost of £2,500⁵. This is reflected in Table 1. We have assumed an average fee for access and for undertaking the survey. In total, this annual cost to those without a survey is estimated to be £625,600

6. All together these impacts amount to £758,000 to the nearest thousand.

7. Using the BIT assessment calculator, these costs are assessed over a five-year period in line with the guidance for impact assessments. Assessing the annual cost as above of 5 years yields a present value of £-3.55m using the standard 3.5% discount rate. The equivalent annual cost to business per year is £0.59m. Survey access costs are considered a transfer from the public sector to the private sector so have been counted in direct cost to business but not in the net present value.

Risks and sensitivity

A key driver of the expected costs of transposing the Directive is based on the wage cost of the farmer or land agent based on the time needed to undertake or access surveys. Assuming only land agents undertake the application, the total cost to business is £812,000⁶. Under the low cost scenario, total annual costs are estimated to be £697,000⁶ when it is assumed only farmers undertake the surveys.

Given the cost of applying for a land use change has increased, the number of farmers applying for such a change may fall as the additional cost provides a disincentive. However, we have not quantified this.

Implementation plan.

Given the proposals, amend an existing regulation rather than introduce a new regulation an implementation plan is not required.

⁵ Based on Natural England guidance.

⁶ Rounded to nearest £1000

Annex

Table 1: Cost summary

NB

All data averaged 2013-2015

All costs are annual

Type of cost	Info	Number of applications	Cost	Increase in costs (projected minus current)
Screening applications search cost		272		
	Completed by farmer			
	Current	0.0	£0	
	Projected	146.9	£13,008	
	Completed by agent			
	Current	125.1	£0	
	Projected	125.1	£52,701	£65,708
Local Biodiversity Records Centre fee	Current	21.76	£5,222	
	Projected	272	£65,280	£60,058
Survey access cost	Biodiversity record		£306	
	Historic Env. Report		£129	
	Both surveys		£435	
		0	£0.00	
		21.76	£6,310	
				£6,310
Cost of undertaking new survey			£2,500	
	Current	0		
	Projected	250.24	£625,600	£625,600
		Total increase in cost		£757,676

Table 2: Farmer-agent split

Source: Natural England data (publicly available, unpublished)

	2013	2014	2015	2016	Average 2013-2015
Number of screening apps	247	255	302	100 to date	268
Screening apps Farmers	132	134	170	58	54%
Screening apps Agents	115	121	132	42	46%

Table 3: Survey search data

Average applications per year	Existing survey completed	No existing survey
268	20.3	247.7
% of total	8%	92%
No. days resource	1	0.5

Source: Natural England data (publicly available, unpublished),

Table 4: Survey costs

Survey	Cost (£)
Biodiversity record	306
Historic Env. Report	129
Both surveys	435
Farmer daily wage	164
Agent daily wage	780

Table 5: Net Benefits and Costs

Net Benefit (Present Value (PV)) (£m)	
Low:	-3430040.14
High:	-2925347.58
Best Estimate	#####

Costs	Total Transition (constant price)	years	Average Annual (excl. Transition, constant price)	Total Cost (present value)
Low	0.0		521666.7	2925347.6
High	0.0		611666.7	3430040.1
Best Estimate	0.0		575833.3	3229097.7

Benefits	Total Transition (constant price)	years	Average Annual (excl. Transition, constant price)	Total Benefit (present value)
Low	0.0		0.0	0.0
High	0.0		0.0	0.0
Best Estimate	0.0		0.0	0.0

Direct impact on business (Equivalent Annual) £m:	
Costs:	585124.9
Benefits:	0.0
Net:	-585124.9

Cost of Option			
Total Net Present Value	Business Net Present Value	Net direct cost to business per year (EANDCB: 2014 prices; 2015 present value)	BIT Score
-3229097.73	-3519716.53	585124.9	2925624.5
NPV / Business NPV Base Years			
Price Base Year	2016		
PV Base Year	2017		
Appraisal period	6		