

The Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017

Transposition note for Directive 2014/52/EU amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment

1. This transposition note sets out how Directive 2014/52/EU (“the 2014 Directive”) amending Directive 2011/92/EU on the assessment of certain public and private projects on the environment (“the EIA Directive”) is transposed in respect of certain projects relating to marine works in England, Wales, Northern Ireland, the Scottish offshore and, in relation to certain reserved matters, the Scottish inshore.

The table shows how the main elements of the 2014 Directive are transposed in the Marine Works (Environmental Impact Assessment) Regulations 2007 (“the 2007 Regulations”), as amended by the Marine Works (Environmental Impact Assessment) (Amendment) Regulations 2017 (“the 2017 Regulations”).

2. References in the table to Article numbers are to the EIA Directive as amended by the 2014 Directive.
3. References in the table to regulations are to the 2007 Regulations as amended by the 2017 Regulations.

Article	Objective	Implementation
Article 1(2)	Definition of “environmental impact assessment”	Regulation 2(1)
Article 1(3)	Exemption for projects or parts of projects having defence as their sole purpose or response to civil emergencies.	Regulations 9 and 9A
Article 2(4)	Exemption in exceptional circumstances.	Regulation 10
Article 2(3)	Joint or co-ordinated procedures to apply where projects are assessed under the EIA Directive and Directive 92/43 EEC on habitats or Directive 2009/147/EC on wild birds.	Regulation 15A
Article 3	Statement of factors which must be considered etc. during environmental impact assessment.	Regulation 21A(2)
Article 4(4) first and second sentence	Developer provides information specified in Annex IIA for an initial (“screening”) decision of whether project likely to have significant effects on environment.	Schedule 2, paragraph 1(1)(b) to (d)
Article 4(4) third sentence	Developer must take other assessments under Union legislation into account in preparing information for screening decision.	Schedule 2, paragraph 1B

Article 4(4) fourth sentence	Developer may also provide a description of features envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.	Schedule 2, paragraph 1(1)(e)
Article 4(5) first sentence	Screening decision of competent authority.	Schedule 2, paragraph 3(5)
Article 4(5) second sentence	Screening decision must be made public.	Schedule 2, paragraph 4A
Article 4(6)	Screening decision must be made within 90 days.	Schedule 2, paragraph 5
Article 5(1) first sentence	Developer must prepare and submit an environmental impact assessment report.	Regulations 12(1)
Article 5(1) second sentence	Environmental statement must include certain information.	Regulation 12(2)(b) and (d)
Article 5(1) third sentence	Environmental statement must be based on opinion (“scoping opinion”) by authority about contents of report where requested.	Regulation 12(2)(c)
Article 5(1) fourth sentence	Developer to take into account other relevant assessments in preparing the statement	Regulation 12(2)(e)
Article 5(2)	Facility for scoping opinions by authority.	Schedule 4, paragraph 1(b) and (ba)
Article 5(3)(a)	Developer must ensure environmental statement is prepared by competent experts.	Regulation 12(2)(f) and (g)
Article 5(3)(b)	Authority must ensure it has sufficient expertise to consider environmental statement.	Regulation 12(2A)
Article 5(3)(c)	Facility for supplementary information to be provided which is relevant to authority’s conclusion about environmental impact.	Regulation 14(1)
Article 6(1)	Authorities with specific environmental responsibilities or local or regional competences to be consulted.	Regulations 2 (amended definition of “consultation bodies”) and regulation 16
Article 6(2) and (5)	Informing the public electronically of request for consent and of availability of environmental statement etc.	Regulation 16(2B)
Article 6(6)/(7)	Timeframe for consulting public on environmental statement must not be less than 30 days.	Regulation 16(2)
Article 7(3)(a)	Where another member State’s environment is affected, information must be sent to authorities in that member State.	Regulations 18 and 20
Article 8a(1)	Decision to grant consent must incorporate at least the reasoned conclusion, and environmental	Regulations 23(2) and 24(1B)

	conditions and, where appropriate, monitoring measures.	
Article 8a(2)	Decision to refuse consent must state reasons.	Regulations 23(2)(c) and 24(1C)
Article 8a(4)	Member state must ensure environmental conditions are implemented by developer and determine procedures regarding monitoring significant adverse effects.	Regulations 22(1) and 24(1B)
Article 8a(5)	Decision whether to grant consent must be made within reasonable time.	Regulations 22(4) and 24(1E)
Article 8a(6)	Authority's conclusion about environmental impact must be up to date when deciding whether to grant consent.	Regulations 22(3) and 24(1D)
Article 9(1)	Informing the public – new reference to consultation bodies.	Regulations 23(2) and 24ZA
Article 9a	Authority must be objective and not in a situation which gives rise to a conflict of interests.	Common law: Magill v Porter [2002] 2 AC 357
Annex II.A	Information to be provided by developer on projects listed in Annex II for screening decision.	Schedule 2
Annex III	Criteria to determine whether projects listed in Annex II should be subject to environmental impact assessment.	Schedule 1
Annex IV	Information for the environmental statement.	Schedule 3