

---

STATUTORY INSTRUMENTS

---

**2018 No. 1232**

**The Environmental Assessments and Miscellaneous  
Planning (Amendment) (EU Exit) Regulations 2018**

**PART 3**

Amendments to secondary legislation

**Amendments to the Environmental Assessment of Plans and Programmes Regulations 2004**

**5.—**(1) The Environmental Assessment of Plans and Programmes Regulations 2004<sup>(1)</sup> are amended as follows.

(2) In regulation 2(1)—

- (a) at the end of the definition of “the Environmental Assessment of Plans and Programmes Directive” add “, as it had effect immediately before exit day”; and
- (b) in the definition of “the Habitats Directive” for “as last amended by Council [Directive 97/62/EC](#)” substitute “as it had effect immediately before exit day”.

(3) In regulation 5—

- (a) in paragraph (2)(b), for “Council [Directive 85/337/EEC](#)<sup>(2)</sup> on the assessment of the effects of certain public and private projects on the environment, as amended by Council [Directive 97/11/EC](#)<sup>(3)</sup>” substitute “[Directive 2011/92/EU](#)<sup>(4)</sup> of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment”; and
- (b) in paragraph (3) after “pursuant to” insert “any law that implemented”.

(4) In regulation 12(4) for “EU legislation” substitute “retained EU law”.

(5) In regulation 14, in paragraphs (1) and (3)(a), for “another” substitute “a”.

(6) In regulation 15—

- (a) in the heading, omit “other”;
- (b) in paragraph (1), omit the words from “in that behalf” to “Directive”; and
- (c) in paragraph (4)—
  - (i) in sub-paragraph (b) for “under Article 7.1 of the Environmental Assessment of Plans and Programmes Directive” substitute “by the Member State”;
  - (ii) in sub-paragraph (d) for “under Article 7.1 of the Environmental Assessment of Plans and Programmes Directive” substitute “by the Member State”.

(7) In Schedule 1, in paragraph 1(e), for “EU legislation” substitute “retained EU law”.

---

(1) [S.I. 2004/1633](#), amended by [S.I. 2011/1043](#); there are other amending instruments but none is relevant to this instrument.  
(2) OJ No L 175, 5.7.1985, p. 40.  
(3) OJ No L 73, 14.3.1997, p. 5.  
(4) OJ No L 26, 28.1.2012, p. 1

- (8) In Schedule 2—
- (a) in paragraph 4, for the words “such as” to the end substitute “such as a European site (within the meaning of regulation 8 of the Conservation of Habitats and Species Regulations 2017<sup>(5)</sup>)”; and
  - (b) in paragraph 5, for “Member State” substitute “national”.

### **Amendments to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017**

6.—(1) The Town and Country Planning (Environmental Impact Assessment) Regulations 2017<sup>(6)</sup> are amended as follows.

- (2) In regulation 2(1)—
- (a) at the end of the definition of “the Directive” add “as it had effect immediately before exit day”;
  - (b) for the definition of “EU environmental assessment” substitute—
 

““EU environmental assessment” means an assessment of the effect of anything on the environment carried out under retained EU law other than any law of any part of the United Kingdom that implemented the Directive;”.
- (3) In regulation 4(2)(b) after “under” insert “any law that implemented”.
- (4) In regulation 26(3)(c) after the second occurrence of “under” insert “any law that implemented”.
- (5) In regulation 32(6)(n)(i), in the text substituting regulation 58(1)(a), for “another” substitute “an”.
- (6) In regulation 35—
- (a) after “requirements” insert “of any law that implemented the Directive”; and
  - (b) after “and” insert “the”.
- (7) In regulation 46(a), in the text substituting regulation 58(1)(a), for “another” substitute “an”.
- (8) In regulation 58—
- (a) in the heading and in paragraphs (1) and (2), for “another”, in each place it occurs, substitute “an”;
  - (b) in paragraph (4) for “referred to in Article 6(1) of the Directive” substitute “which the EEA State designated to be consulted about the project”;
  - (c) in paragraph (5)—
    - (i) omit “in accordance with Article 7(4) of the Directive”; and
    - (ii) in sub-paragraph (b) omit “other”.
- (9) In regulation 59—
- (a) in the heading for “another” substitute “an”;
  - (b) in paragraph (1)—
    - (i) for “another” substitute “an”;
    - (ii) omit “, pursuant to Article 7(1) or 7(2) of the Directive,”;
    - (iii) omit “, in accordance with Article 7(4) of the Directive”;
    - (iv) in sub-paragraph (b)—

---

(5) S.I. 2017/1012.

(6) S.I. 2017/571.

- (aa) for “in that EEA State” substitute “(which the EEA State designated as responsible for performing the duties arising from the Directive)”;
  - (bb) omit “pursuant to Article 7(3)(b) of the Directive”; and
  - (c) in paragraph (2)(c) omit “in order to comply with Article 9(2) of the Directive”.
- (10) In regulation 63—
- (a) in paragraphs (3)(b) and (5)(b) for “another”, in each place it occurs, substitute “an”; and
  - (b) omit paragraph (6).
- (11) In Schedule 1—
- (a) in paragraph 22 after “pursuant to” insert “Chapter 3 of Part 1 of the Energy Act 2008(7) and any law that implemented”; and
  - (b) in paragraph 23 for “pursuant to [Directive 2009/31/EC\(8\)](#)” substitute “(pursuant to Chapter 3 of Part 1 of the Energy Act 2008 and any law that implemented [Directive 2009/31/EC](#))”.
- (12) In Schedule 2, in the table in paragraph 1 in item 3(j), for “pursuant to [Directive 2009/31/EC](#)” substitute “(pursuant to Chapter 3 of Part 1 of the Energy Act 2008 and any law that implemented [Directive 2009/31/EC](#))”.
- (13) In Schedule 3, in paragraph 2(1)(c)(vi), for “Union legislation” substitute “retained EU law”.
- (14) In Schedule 4—
- (a) in paragraph 5—
    - (i) for “or Member State” substitute “level (as they had effect immediately before exit day) or United Kingdom”;
    - (ii) after “those established under” insert “the law of any part of the United Kingdom that implemented”; and
  - (b) in paragraph 8—
    - (i) for “EU legislation such as” substitute “retained EU law such as any law that implemented”; and
    - (ii) after “requirements of” insert “any law that implemented”.

### **Amendments to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017**

7.—(1) The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(9) are amended as follows.

- (2) In regulation 3(1)—
  - (a) at the end of the definition of “the Directive” add “as it had effect immediately before exit day”;
  - (b) for the definition of “EU environmental assessment” substitute—

““EU environmental assessment” means an assessment of the effect of anything on the environment carried out under retained EU law other than any law of any part of the United Kingdom that implemented the Directive;”.
- (3) In regulation 5(2)(b) after “under” insert “any law that implemented”; and
- (4) In regulation 21(3)(c) after “other than under” insert “any law that implemented”.

---

(7) [2008 c. 32](#).

(8) [OJ No L 140, 5.6.2009, p. 114](#).

(9) [S.I. 2017/572](#).

- (5) In regulation 25(3)(c) after “other than under” insert “any law that implemented”.
- (6) In regulation 32—
- (a) in paragraphs (1) and (3) for “another”, in each place it occurs, substitute “an”;
  - (b) in paragraph (5) for “referred to in Article 6(1) of the Directive” substitute “which the EEA State designated to be consulted about the project”; and
  - (c) in paragraph (6)—
    - (i) omit “in accordance with Article 7(4) of the Directive”; and
    - (ii) in sub-paragraph (b) omit “other”.
- (7) In regulation 33—
- (a) in paragraphs (3)(b) and (5)(b) for “another”, in each place it occurs, substitute “an”; and
  - (b) omit paragraph (6).
- (8) In Schedule 1—
- (a) in paragraph 22 after “pursuant to” insert “Chapter 3 of Part 1 of the Energy Act 2008 and any law that implemented”; and
  - (b) in paragraph 23 for “pursuant to [Directive 2009/31/EC\(10\)](#)” substitute “(pursuant to Chapter 3 of Part 1 of the Energy Act 2008 and any law that implemented [Directive 2009/31/EC](#))”.
- (9) In Schedule 2, in paragraph 3(j), for “pursuant to [Directive 2009/31/EC](#)” substitute “(pursuant to Chapter 3 of Part 1 of the Energy Act 2008 and any law that implemented [Directive 2009/31/EC](#))”.
- (10) In Schedule 3, in paragraph 2(1)(c)(vi), for “Union legislation” substitute “retained EU law”.
- (11) In Schedule 4—
- (a) in paragraph 5—
    - (i) for “or Member State” substitute “level (as they had effect immediately before exit day) or United Kingdom”;
    - (ii) after “those established under” insert “the law of any part of the United Kingdom that implemented”; and
  - (b) in paragraph 8—
    - (i) for “EU legislation such as” substitute “retained EU law such as any law that implemented”; and
    - (ii) after “requirements of” insert “any law that implemented”.