

**Transposition Note for the implementation of Directive 2011/92/EU and its amending Directive 2014/52/EU on the assessment of the effects of certain public and private projects on the environment by the Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020**

**Introduction:** The Environmental Impact Assessment Directive first came into force in 1985 as Council Directive 85/337/EEC and was amended in 1997, 2003 and 2009. The 1985 Directive and its three amendments were codified by Directive 2011/92/EU (“the EIA Directive”), and it was subsequently amended by Directive 2014/52/EU (the “Amending EIA Directive”).

The EIA Directive was implemented for offshore activities related to oil and gas exploration and production, gas storage and unloading and carbon dioxide storage (“offshore projects”) by the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (“the 1999 Regulations”). The Amending EIA Directive was implemented regarding offshore projects by Part 1 of the Offshore Petroleum Production and Pipe-lines (Environmental Impact Assessment and other Miscellaneous Provisions) (Amendment) Regulations 2017, which amended the 1999 Regulations.

The Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020 (“the Offshore EIA Regulations”) seek to fully transpose the EIA Directive and the Amending EIA Directive for offshore projects. They replace the 1999 Regulations, which continue to apply only for some limited transitional purposes. This table seeks to explain how the Offshore EIA Regulations implement the EIA Directive and the Amending EIA Directive.

<b>EIA Directive Article</b>	<b>Relevant regulations in the Offshore EIA Regulations</b>
<b>Article 1 - Scope and definitions</b>	
Article 1(1) Subject Matter	Scope made clear by regulation 1, definition of “project” and Schedules 1-3.
Article 1(2) Definitions	Regulation 3 for definition of “project” Regulation 3 for definition of “developer”
Definition of “environmental impact assessment” added by Article 1(1)(a) of the Amending EIA Directive.	“development consent” is not used in the Regulations. The term “consent” is used instead, and “consent” takes its ordinary dictionary meaning.
	“public” is not defined in the Regulations and it takes its ordinary dictionary meaning
	“public concerned” is not a term used in the Regulations. Instead “public” is used throughout the Regulations. The Regulations ensure that any requirements that apply regarding the “public concerned” are implemented for the “public”.
	“competent authority or authorities” is not defined. The Regulations make clear the functions for which the Secretary of State

	is responsible and the functions for which the Oil and Gas Authority is responsible.
	Regulation 3 for definition of “environmental impact assessment”
Article 1(3) Exemptions: Defence and civil emergencies Article 1(3) replaced by Article 1(1)(b) of the Amending EIA Directive.	Regulation 17
<b>Article 2 - Requirement for project consents and procedure</b>	
Article 2(1) Development consent and environmental impact assessment (EIA) procedures Articles 2(1)-(3) replaced by Article 1(2)(a) of the Amending EIA Directive.	Regulations 4, 5, 6 and 7
Article 2(2) Integration of EIA into existing development consent procedures Articles 2(1)-(3) replaced by Article 1(2)(a) of the Amending EIA Directive.	Regulation 4 sets out the procedure that applies regarding consents.
Article 2(3) Coordinated/ joint procedures Articles 2(1)-(3) replaced by Article 1(2)(a) of the Amending EIA Directive.	Regulation 5(5) sets out that habitats assessments and environmental impact assessments are prepared in a coordinated approach.
Article 2(4) Exemptions - Provisions for exempting, in exceptional circumstances, specific projects from the Directive’s obligations where the application of those obligations would adversely affect the purpose of projects Article 2(4) amended by Article 1(2)(b) of the Amending EIA Directive.	Regulation 18 Article 2(4)(c) not relevant for legislative transposition. Requirements on Commission not relevant for legislative transposition.
Article 2(5) Exemptions - Provision whereby projects adopted by specific acts of national legislation may be exempted from the Directive’s public consultation requirements Article 2(5) added by Article 1(2)(c) of the Amending EIA Directive.	Not required – no projects to which this provision applies. If this became applicable, it could be addressed in the relevant national legislation.
<b>Article 3 - EIA requirements</b>	
Article 3(1) Assessment factors Article 3 replaced by Article 1(3) of the Amending EIA Directive.	Schedule 6(5)(a)
Article 3(2) Assessment factors: requirement to consider the expected effects deriving from the	Schedule 6(5)(c)

vulnerability of a project to risks of major accidents and / or disasters that are relevant to the project Article 3 replaced by Article 1(3) of the Amending EIA Directive.	
<b>Article 4 - Projects subject to assessments</b>	
Article 4(1) Annex I projects to be subject to full EIA process	Regulation 5(1) and Schedule 1
Article 4(2) Annex II projects to be screened to determine if EIA is required, or decision that no EIA is required without screening	Regulation 5(2), 5(3), 6 and 7 and Schedule 2 and Schedule 3
Article 4(3) Annex III criteria to be taken into account Article 4(3) replaced by Article 1(4)(a) of the Amending EIA Directive.	First sentence – regulation 6(3)(b), regulation 7(2)(b) and Schedule 5  Second sentence – regulations 5(2)(b), 5(3), and 7 and Schedule 3
Article 4(4) Annex II.A – information required for determinations Article 4(4) replaced by Article 1(4)(a) of the Amending EIA Directive.	Regulation 6(1) and Schedule 4
Article 4(5) Determinations to be made on basis of information provided by the project developer. Determinations to be made publicly available Article 4(5) added by Article 1(4)(b) of the Amending EIA Directive.	Opening paragraph - regulation 6(3) and regulation 6(8).  Paragraph (a) – regulation 6(4) and 6(8)  Paragraph (b) – regulation 6(4) and 6(8)
Article 4(6) Timeframe for determinations Article 4(6) added by Article 1(4)(b) of the Amending EIA Directive.	Regulations 6(5), 6(6) and 6(7)
<b>Article 5 - Criteria for EIA Report</b>	
Article 5(1) Information to be included in an EIA Report (an “environmental statement” in the Offshore EIA Regulations) Article 5(1)-(3) replaced by Article 1(5) of the Amending EIA Directive.	5(1)(a)-(f) - regulation 3 (“environmental statement” definition) and regulation 8(1) and Schedule 6 5(1) final paragraph – regulations 8(2) and 9(7)
Article 5(2) Provision for scoping opinions Article 5(1)-(3) replaced by Article 1(5) of the Amending EIA Directive.	First paragraph - regulation 9  Second paragraph – not applicable, this option would never be applied.

Article 5(3) Requirements for Environmental Statements to be prepared by competent experts, for the competent authority to have access to sufficient expertise to examine Environmental Statements and for the competent authority to seek supplementary information Article 5(1)-(3) replaced by Article 1(5) of the Amending EIA Directive.	Article 5(3)(a) – regulation 8(3)(a)  Article 5(3)(b) - The Secretary of State fulfils this through having suitably qualified and competent staff, and by consulting relevant authorities. The Secretary of State would also obtain further expertise elsewhere if it considered this necessary  Article 5(3)(c) – Regulation 12(1)
Article 5(4) Requirement for authorities to provide a project developer with any relevant information which the authority holds	Regulation 10
<b>Article 6 - Seeking opinions from relevant authorities and public on proposed projects</b>	
Article 6(1) Requirement to ensure appropriate authorities are given an opportunity to express opinions on information provided by developers in relation to proposed projects Article 6(1) replaced by Article 1(6)(a) of the Amending EIA Directive.	Regulations 11(1) and 11(3)(a) and (b) and 12(5)(a) and (b)
Article 6(2) Provisions for making information in relation to proposed projects publicly available Article 6(2) amended by Article 1(6)(b) of the Amending EIA Directive.	Article 6(2)(a) - regulation 11(3)(c)(i) and regulation 12(5)(c)(ii) Article 6(2)(b) - regulation 11(3)(c)(ii) and regulation 12(5)(c)(iii) Article 6(2)(c) - regulation 11(3)(c)(iii) and (vii) and regulation 12(5)(c)(iv) and (viii). Article 6(2)(d) - regulation 11(3)(c)(iv) and regulation 12(5)(c)(v) Article 6(2)(e) - regulation 11(3)(c)(v) and (vi) and regulation 12(5)(c)(vi) and (vii) Article 6(2)(f) - regulation 11(3)(c)(v) and (vi) and regulation 12(5)(c)(vi) and (vii) Article 6(2)(g) - regulation 11(3)(c)(vii) and (viii) and regulation 12(5)(c)(viii) and (ix)
Article 6(3) Supplemental provisions for making information in relation to proposed projects publicly available	Article 6(3)(a) and (b) – Regulations 11 and 12  Article 6(3)(c) – regulation 12(5) to (10)
Article 6(4) Requirement for the public concerned to be given early and effective opportunities to participate in decision-making procedures	Regulation 11(3)(c)(vii) and regulation 12(5)(c)(viii)
Article 6(5) Requirements concerning the detailed arrangements for informing the public about relevant issues relating to proposed projects Article 6(5) replaced by Article 1(6)(c) of the Amending EIA Directive.	Regulation 11 and regulation 12.

<p>Article 6(6) Requirements pertaining to reasonable timeframes for informing authorities and the public during different phases of the EIA process Article 6(6) replaced by Article 1(6)(d) of the Amending EIA Directive.</p>	<p>Article 6(6)(a) - regulation 11(3) and regulation 12(5)</p>
<p>Article 6(7) Requirement for timeframe of not less than 30 days for consulting the public on Environmental Statements Article 6(7) added by Article 1(6)(e) of the Amending EIA Directive.</p>	<p>Article 6(6)(b) - (b) - Regulation 11(3)(a)(iv) and 11(3)(c)(vii) and regulation 12(5)(a) and 12(5)(c)(viii)</p>
<p><b>Article 7 - Projects likely to have significant effects on the environment in another Member State</b></p>	<p>Regulation 11(3)(a)(iv) and 11(3)(c)(vii) and regulation 12(5)(a) and 12(5)(c)(viii).</p>
<p>Article 7(1) Requirements for consultation plus the provision of information where a Member State is aware that a project is likely to have significant effects on the environment in another Member State or where a Member State likely to be significantly affected so requests information</p>	<p>For UK projects: Opening paragraph – regulation 13(1), 13(3) Article 7(1)(a) - Regulation 13(2)(a) Article 7(1)(b) - Regulation 13(2)(b) Closing paragraph – regulation 13(2)(c) For overseas projects: Regulation 19.</p>
<p>Article 7(2) Supplemental requirements concerning the provision of information from one Member State to another Member State whose environment is likely to be significant affected by a proposed project</p>	<p>For UK projects: Regulation 13(4)(a)</p> <p>For overseas projects: Regulations 19(2)</p>
<p>Article 7(3) Requirements for ensuring that an affected Member State plus its authorities and public are provided with information within a reasonable timeframe and are given adequate opportunities to provide opinions on a proposed project which may significantly impact on their environment</p>	<p>For UK projects: Article 7(3)(a) - Would be for consultee country to carry out Article 7(3)(b) – regulation 13(4)(b) and (c)</p> <p>For overseas projects: Regulations 19(2), and 19(3)</p>
<p>Article 7(4) Consultation requirements and associated timeframes between Member States Article 7(4) replaced by Article 1(7)(a) of the Amending EIA Directive.</p>	<p>For UK projects: Regulation 13(4)(b)</p> <p>For overseas projects: Regulation 19(2)</p>
<p>Article 7(5) Further arrangements for projects affecting other Member States Article 7(5) replaced by Article 1(7)(b) of the Amending EIA Directive.</p>	<p>Implemented administratively</p>
<p><b>Article 8 - Taking into account in the consenting procedures the results of consultations and information gathered</b></p>	

Article 8 Requirement for decisions to take into account the results of consultations and information gathered Article 8 replaced by Article 1(8) of the Amending EIA Directive.	Regulation 14(2).
<b>Article 8a - Requirements regarding grant/refusal of development consent</b>	
Article. 8a(1) Information to be incorporated in decision and further provisions on decision-making Article 8a inserted by Article 1(9) of the Amending EIA Directive.	Regulation 14(3) Regulation 15(2)
Article 8a(2) Decisions refusing consent to state the main reasons for refusal Article 8a inserted by Article 1(9) of the Amending EIA Directive.	Regulation 14(4) Regulations 15(3) and 15(4)
Article 8a(3) Provisions where Member States make use of the integration procedures referred to in Article 2(2) Article 8a inserted by Article 1(9) of the Amending EIA Directive.	Not applicable
Article 8a(4) Requirements for conditions and monitoring of significant adverse effects Article 8a inserted by Article 1(9) of the Amending EIA Directive.	First paragraph – regulations 4(4), 4(5) and 14(3)(b) Second paragraph – regulation 4(5)(b) Third paragraph – regulation 4(5)(a)
Article 8a(5) Requirements for decisions to be made in a reasonable timeframe Article 8a inserted by Article 1(9) of the Amending EIA Directive.	Regulation 14(6) and regulation 15(1)
Article 8a(6) Requirement that a competent authority's reasoned conclusion must be "up-to-date" when a decision is taken to grant consent Article 8a inserted by Article 1(9) of the Amending EIA Directive.	Regulation 12(1) to 12(5)
<b>Article 9 - Informing the public of consenting decisions</b>	
Article 9(1) Requirements for decisions and additional information about decisions (including results of consultations undertaken) to be notified to the public and consultation bodies Article 9(1) replaced by Article 1(10) of the Amending EIA Directive.	Regulation 16
Article 9(2) Requirements for competent authority or authorities to inform any Member State which	First paragraph - regulation 13(6) Second paragraph – regulation 19(4)

has been consulted pursuant to Article 7 about consenting decisions	
<b>Article 9a - Avoiding conflicts of interest</b>	
Article 9a Requirement to avoid conflicts of interest Article 9a inserted by Article 1(11) of the Amending EIA Directive.	First paragraph - implemented administratively  Second paragraph – not applicable
<b>Article 10 – Confidentiality and other legal requirements</b>	
Article 10 Requirements concerning the confidentiality of information Article 10 amended by Article 1(12) of the Amending EIA Directive.	First paragraph – confidentiality covered by regulation 20, otherwise implemented administratively  Second paragraph – regulations 13 and 19 would allow for this, so it can be implemented administratively
<b>Article 10a - Penalties</b>	
Article 10a Provisions on appropriate penalties for infringements of national provisions adopted pursuant to the Directive Article 10a inserted by Article 1(13) of the Amending EIA Directive.	Regulations 24 to 27
<b>Article 11 - Rights of public / interested parties to challenge consenting decisions</b>	
Article 11(1) Requirements for the public to have access to review procedures before national courts of law or another independent and impartial body to challenge EIA decisions	Decisions may be challenged by judicial review
Article 11(2) Provisions for Member States to determine at what stage in the EIA process decisions may be challenged	Decisions may be challenged by judicial review in accordance with standard procedure
Article 11(3) Requirement for Member States to determine what constitutes a sufficient interest and impairment of a right, with the objective of granting the public concerned wide access to justice	Decisions may be challenged by judicial review by those with sufficient interest in accordance with standard procedure.
Article 11(4) Provisions concerning the possibility for a preliminary review procedure before an administrative authority	Decisions may be challenged by judicial review in accordance with standard procedure
Article 11(5) Requirement for Member States to ensure that practical information is made available to the public on access to administrative and judicial review procedures	Implemented administratively
<b>Article 12 - Exchanges of information</b>	



Article. 12(1) Member States and the Commission to exchange information on the experience gained in applying the Directive	Not relevant for legislative transposition.
Article. 12(2) Provision by Member States of 'six yearly' reports providing specified information to the Commission on the implementation of the EIA Directive Article 12(2) replaced by Article 1(14) of the Amending EIA Directive.	Not relevant for legislative transposition.
Article 12(3) Requirement on the Commission to, if deemed necessary, submit additional proposals to the European Parliament and to the Council, with a view to ensuring that the Directive is applied in a sufficiently coordinated manner	Not relevant for legislative transposition.
<b>Article 13 – Communication to the commission</b>	Not relevant for legislative transposition.
<b>Article 14 to 16</b>	Not relevant for legislative transposition.
<b>ANNEX I – Projects Referred to in Article 4(1)</b>	
Annex I Projects	Schedule 1
<b>ANNEX II – Projects Referred to in Article 4(2)</b>	
Annex II Projects	Schedules 2 and 3
<b>ANNEX II.A – Information referred to in Article 4(4)</b>	
Annex II.A Information to be provided by the developer on the projects listed in Annex II Annex II.A inserted by Article 1(15) of, and the Annex to, the Amending EIA Directive.	Schedule 4
<b>ANNEX III – Selection Criteria referred to in Article 4(3)</b>	
Annex III Criteria to determine whether the projects listed in Annex II should be subject to an EIA Annex III replaced by Article 1(15) of, and the Annex to, the Amending EIA Directive.	Schedule 5
<b>ANNEX IV – Information referred to in Article 5(1)</b>	
Annex IV Information for the environmental statement Annex IV replaced by Article 1(15) of, and the Annex to, the Amending EIA Directive.	Schedule 6
<b>Annex V – List of time limits for transposition</b>	Not relevant for legislative transposition.
<b>Amending EIA Directive Article</b>	<b>Relevant regulations in the draft Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations 2020</b>



Article 1	See amendments made to the EIA Directive listed above
Article 2 This Article states the transposition date and requires Member States to communicate to the Commission the text of the main transposing provisions.	Not required.
Article 3  This Article contains transitional provisions for projects that were subject to screening or scoping or where an environment statement has been submitted before the transposition date.	Not required.