

PRELIMINARY REGULATORY IMPACT ASSESSMENT

Title: The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017	Regulatory Impact Assessment (RIA)
	Date:
	Type of measure: Secondary Legislation
Lead department or agency: Department for Infrastructure	Stage: Amending Legislation
	Source of intervention: EU
Other departments or agencies:	Contact details: Brian Gorman
	Planning Policy Division Room 1-01 Clarence Court 10-18 Adelaide Street Belfast BT2 8GB

Summary Intervention and Options

What is the problem under consideration? Why is government intervention necessary? (7 lines maximum)
 The EU has amended Directive 2011/92/EU which covers the assessment of the effects of certain public and private projects on the environment (known as the Environmental Impact Assessment or EIA Directive). The amending Directive 2014/52/EU forms part of European law and the Department for Infrastructure is responsible for the proper transposition of the EIA Directive into Northern Ireland planning legislation to avoid the potential for infraction proceedings in the future.

What are the policy objectives and the intended effects? (7 lines maximum)
 The EIA Directive's main policy objective is to provide a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and assessment of projects with a view to reduce their impact on the environment. It is intended to lighten unnecessary administrative burdens, improve current levels of environmental protection and introduce a more harmonised regulatory framework, with a view to making decisions on public and private investments more sound, more predictable and sustainable in the longer term. It will also ensure the planning authority giving planning permission for a project makes its decision in the full knowledge of any likely significant effects on the environment.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base) (10 lines maximum)
 The policy options considered were to either transpose the amended Directive as appropriate or to do nothing. While to do nothing was considered it was not the preferred option as the consequences of not transposing and implementing the amending EIA Directive would lead to potential infraction proceedings being carried out by the EU on failure to transpose. Therefore the preferred option is to transpose the amending Directive and this could only be achieved by way of Northern Ireland planning secondary legislation. While all sizes of organisations are within scope this only occurs where an organisation submits an application for planning permission which is considered EIA development. The amending legislations does not introduce any changes to the costs associated with compliance. Any costs are far outweighed by the increase in land or asset value by virtue of the grant of planning permission.

Will the policy be reviewed? It will be reviewed	If applicable, set review date: Ongoing
---	--

Cost of Preferred (or more likely) Option		
Total outlay cost for business £m	Total net cost to business per year £m	Annual cost for implementation by Regulator £m
N/A	N/A	N/A

Does Implementation go beyond minimum EU requirements?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
---	--	------------------------------

Are any of these organisations in scope?	Micro Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Small Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Medium Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Large Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
--	---	---	--	---

The final RIA supporting legislation must be attached to the Explanatory Memorandum and published with it.

Approved by: Angus Kerr

Date: 10 May 2017

Summary: Analysis and Evidence

Policy Option 2

Description: Transposition of EIA Directive 2014/52/EU

ECONOMIC ASSESSMENT (Option)

Costs (£m)	Total Transitional (Policy) (constant price) Years		Average Annual (recurring) (excl. transitional) (constant price)	Total Cost (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate				
<p>Description and scale of key monetised costs by ‘main affected groups’ Maximum 5 lines The main direct financial costs arising from transposing the Directive fall to developers in commissioning consultants to prepare an EIA Report. These costs are unlikely to change significantly. The administrative costs and resources required to fully implement the amended EIA Regulations for planning authorities may rise during the ‘familiarisation’ period.</p>				
<p>Other key non-monetised costs by ‘main affected groups’ Maximum 5 lines Transposition of the Directive will amend the existing duties and obligations and may necessitate some prioritisation of administrative practices and resources. No significant non-monetised costs have been identified.</p>				
Benefits (£m)	Total Transitional (Policy) (constant price) Years		Average Annual (recurring) (excl. transitional) (constant price)	Total Benefit (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate				
<p>Description and scale of key monetised benefits by ‘main affected groups’ Maximum 5 lines As the amended EIA Directive streamlines the already established requirements in relation to EIA, it is considered by the Department for Infrastructure that this may reduce costs. The new express provision on the consideration of mitigation measures at the screening stage may help to reduce the number of project applications requiring an EIA.</p>				
<p>Other key non-monetised benefits by ‘main affected groups’ Maximum 5 lines It is anticipated the amending EIA Directive will lighten unnecessary administrative burdens, reinforce the quality of decision-making, improve current levels of environmental protection and introduce a more harmonised regulatory framework.</p>				
<p>Key Assumptions, Sensitivities, Risks Maximum 5 lines</p>				

BUSINESS ASSESSMENT (Option)

Direct Impact on business (Equivalent Annual) £m			
Costs:	Benefits:	Net:	

Cross Border Issues (Option)

How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland) Maximum 3 lines

Transposition of the Directive has been progressed in line with the established UK approach and informed by direct engagement with all other UK jurisdictions.

Evidence Base

Problem under consideration

Following a report on the application and effectiveness of Directive 2011/92/EU and a wide public consultation, an amended EIA Directive (2014/52/EU) came into force on 15 May 2014. Its aims are to correct the shortcomings of the previous regime, reflect on-going environmental and socio-economic changes and challenges, and align it with the principles of smart regulation. In addition, emerging challenges that are important to the EU as a whole in areas such as resource efficiency, climate change, biodiversity and disaster prevention are now reflected in the assessment process.

It is the responsibility of the Department for Infrastructure to transpose the planning elements of this amending EIA Directive into Northern Ireland legislation.

Rationale for intervention

With the introduction of the amended EIA Directive, which was developed to strengthen and enhance the EIA process, it is incumbent upon the Department for Infrastructure as part of the Member State to transpose as appropriate the amended EIA Directive into planning legislation to prevent the possibility of infraction proceedings and to ensure the EIA process continues to operate effectively.

Policy objective

To implement the EIA directive 2014/52/EU ensuring that it is operational in Northern Ireland planning legislation by the transposition deadline of 16th May 2017.

Description of options considered (including do nothing), with reference to the evidence base to support the option selection

The options in relation to this matter were to either transpose the amending EIA Directive as appropriate or to do nothing.

1. Do Nothing

This would mean maintaining the current sets of Planning EIA regulations without transposing the requirements of the Directive.

2. Implement the EIA Directive

This would mean implementing the planning elements of the Directive into Northern Ireland legislation to ensure compliance with the amended Directive in a way that minimises regulatory burden whilst ensuring protection for our environment.

Choosing the 'do nothing' option would risk the European Commission initiating infraction proceedings against Northern Ireland, through the UK, for failure to implement the Directive, potentially leading to fines imposed by the European Court of Justice. Therefore the preferred option is to transpose the amending Directive by way of amending Northern Ireland planning secondary legislation.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

The main direct financial costs arising from transposing the Directive fall to developers in commissioning consultants to prepare an EIA Report. These costs are unlikely to change significantly. As the amended EIA Directive streamlines the already established requirements in relation to EIA, it is considered by the Department for Infrastructure that this may reduce costs as necessary environmental information will be more readily available and amendments will support greater predictability in decision-making.

The Department is of the opinion that the resources required to fully implement the amended EIA Directive would be similar to the resources required to fully implement the 2011/92/EU Directive and this would include administrative matters, however, these administrative costs could rise during the 'familiarisation' period.

Rationale and evidence that justify the level of analysis used in the RIA (proportionality approach)

A major analysis of this matter has not been carried out by the Department of Infrastructure in relation to the RIA, the rationale being that the amended EIA Directive has been developed to strengthen and enhance the existing EIA process and it is considered that minimal additional burden on resources or requirements will result.

Risks and assumptions

Risks would include infraction proceedings for non-transposition and implementation. Environmental consequences for not transposing which would include not reflecting on-going environmental and socio-economic changes and challenges as well as issues with resource efficiency, climate change, biodiversity and disaster prevention. It is assumed by the Department for Infrastructure that the appropriate transposition of the amended EIA Directive will lead to a strengthening of the EIA process within the Member State and its various jurisdictions. Failure to transpose may mean that the benefits of improved streamlining will not be realised.

Direct costs and benefits to business

While it is not possible to estimate the costs to business as these are dependent on the size, location, characteristics etc of each development, it is anticipated that the direct costs to business may decrease with the introduction of the amended EIA Directive into Northern Ireland planning legislation as procedures are streamlined. The amended Directive requires more up front information at screening stage, with new express provision on the consideration of mitigation measures at the screening stage which may help to reduce the number of project applications requiring an EIA. The EIA process is currently in place and well established with both the developer and planning authority aware of their responsibilities and requirements regarding EIA.

Wider impacts (in the context of other Impact Assessments in Policy Toolkit Workbook 4, economic assessment and NIGEAE)

The introduction of the amended EIA Directive will not have any impact on other assessments to be carried out in relation to the making of this legislation.

The amending EIA Directive states that the planning permission should set out the parameters and duration of any monitoring to be required and that this should be proportionate to the nature, location and size of the project and its significant effects on the environment, this may have an additional impact in the EIA process. Although monitoring should not be used as a general means of gathering environmental information and should not duplicate any monitoring required for other reasons.