



Department of
**Agriculture, Environment
and Rural Affairs**
www.daera-ni.gov.uk

**CONSULTATION ON PROPOSED NEW WATER
RESOURCES ENVIRONMENTAL IMPACT ASSESSMENT
REGULATIONS TO IMPLEMENT EUROPEAN DIRECTIVE
2014/52/EU ON THE ASSESSMENT OF THE EFFECTS OF
CERTAIN PUBLIC AND PRIVATE PROJECTS ON THE
ENVIRONMENT**

Department of Agriculture, Environment and Rural Affairs

March 2017

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(i) Consultation Arrangements

The Department welcomes any views or comments on any aspect of its proposals to make new water resources Environmental Impact Assessment Regulations in order to transpose Directive 2014/52/EU.

Please send your views and comments on the proposals set out in this document to the Department by 26th April 2017.

Comments may be made as follows:-

In writing to:-

Water Policy Team
Department of Agriculture, Environment and Rural Affairs
Regulatory and Natural Resources Policy Division
2nd Floor
Klondyke Building
Cromac Avenue
Gasworks Business Park
Lower Ormeau Road
Belfast
BT7 2JA

By Fax 028 9025 6079

By E-mail waterpolicy@daera-ni.gov.uk

By Text phone: 028 9054 0642

Further copies of this paper may be obtained from the above address on written request or by telephoning 028 9025 6723. The paper can also be accessed online at: <https://www.daera-ni.gov.uk/consultations>

This document may be available in alternative formats. Please contact us to discuss your requirements.

A list of some of the consultees that we have contacted directly for this exercise is attached at Annex B. This list is not exhaustive and we welcome views from all interested parties.

(ii) Freedom of Information Act 2000

The Department will publish a summary of responses following completion of the consultation process. Your response and all other responses to the consultation may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. **Before** you submit your response, please read the paragraphs below with respect to the confidentiality of consultations, as they will give you guidance on the legal position about any information given by you in response to this consultation.

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or treated as confidential.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:-

- The Department should only accept information from third parties in confidence if it is necessary to obtain information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
- The Department should not agree to hold information received from third parties 'in confidence' which is not confidential in nature; and
- Acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about confidentiality of response please contact:-

Information Commissioner's Office – Northern Ireland

3rd Floor, 14 Cromac Place

Gasworks

Ormeau Road

Belfast

BT7 2JB

Telephone: 02890 278757 / 0303 1231114

Alternatively your request can be sent electronically to ni@ico.org.uk

Part 1: Explanation of the consultation – what this is about

Introduction

Directive 2011/92/EU, known as the Environmental Impact Assessment Directive (EIA Directive), forms part of European law and is, therefore, incorporated into our national legislation.

Environmental impact assessment is a process. It aims to provide a high level of protection to the environment and to help bring environmental considerations into the preparation of projects to reduce their impact on the environment. It seeks to ensure that proposals for development (referred to as 'projects' in the EIA Directive) that are likely to have a significant effect on the environment, for instance by virtue of their nature, size or location, are subject to a requirement for development consent and an assessment of those effects before the development is allowed to proceed.

EU Directive 2014/52/EU (the 2014 Directive) amended the EIA Directive by simplifying the rules for assessing the potential effects of projects on the environment in line with the drive for smarter regulation in order to lighten unnecessary administrative burdens. It also improves the level of environmental protection, with a view to making business decisions on public and private investments more sound, more predictable and sustainable in the longer term.

The European Commission has produced an unofficial consolidated version of the Directive which is available here:-

http://ec.europa.eu/environment/eia/pdf/EIA_Directive_informal.pdf.

What is the purpose of this consultation?

The purpose of this consultation is to invite views on proposed changes to the Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2005 (the water resources EIA Regulations) in order to reflect amendments introduced by the 2014 Directive. The Department is proposing to consolidate the current water resources EIA legislation and to update this with the changes required as a result of the 2014 Directive.

This consultation invites views on the Department's proposed changes in respect of its environmental impact assessment legislation relating to agricultural water resources projects. Consultees are invited to consider the proposals in their totality and provide any comments.

The requirements of the EIA Directive form part of European law and must be incorporated into the Member States' domestic legislation no later than 16 May 2017.

Part 2: Background to Directive 2014/52/EU

History

The EIA Directive first came into force in 1985. It has been amended since then, including in December 2011 when the Directive and its amendments were brought together into one document - Directive 2011/92/EU. Further amendments were introduced by the 2014 Directive. It is these changes that now require modifications to a number of sets of regulations – this paper's focus is on the proposed changes to the water resources EIA Regulations.

The overall objective of the EIA Directive is to ensure that projects which are likely to have a significant effect on the environment by virtue of, among other things, their nature, size or location are required to obtain consent under the appropriate EIA regulations. This consent may only be given after an assessment of the project's potential environmental impact.

The broad intention of the 2014 amendments is deregulatory – to simplify and clarify requirements, by focusing on environmental factors that are significantly impacted by development, rather than on any potential impact.

Implementation

The EIA Directive has been transposed through a number of regulations administered by different government departments. As well as the proposed changes to the water resources EIA Regulations, DAERA and DFI will also be updating relevant EIA legislation in respect of planning, land drainage, marine works, agriculture and forestry - separate consultations will focus on the proposed changes in respect of those specific areas. For this consultation, 'applicants' are people, companies or organisations applying under the EIA process.

The Environmental Impact Assessment process

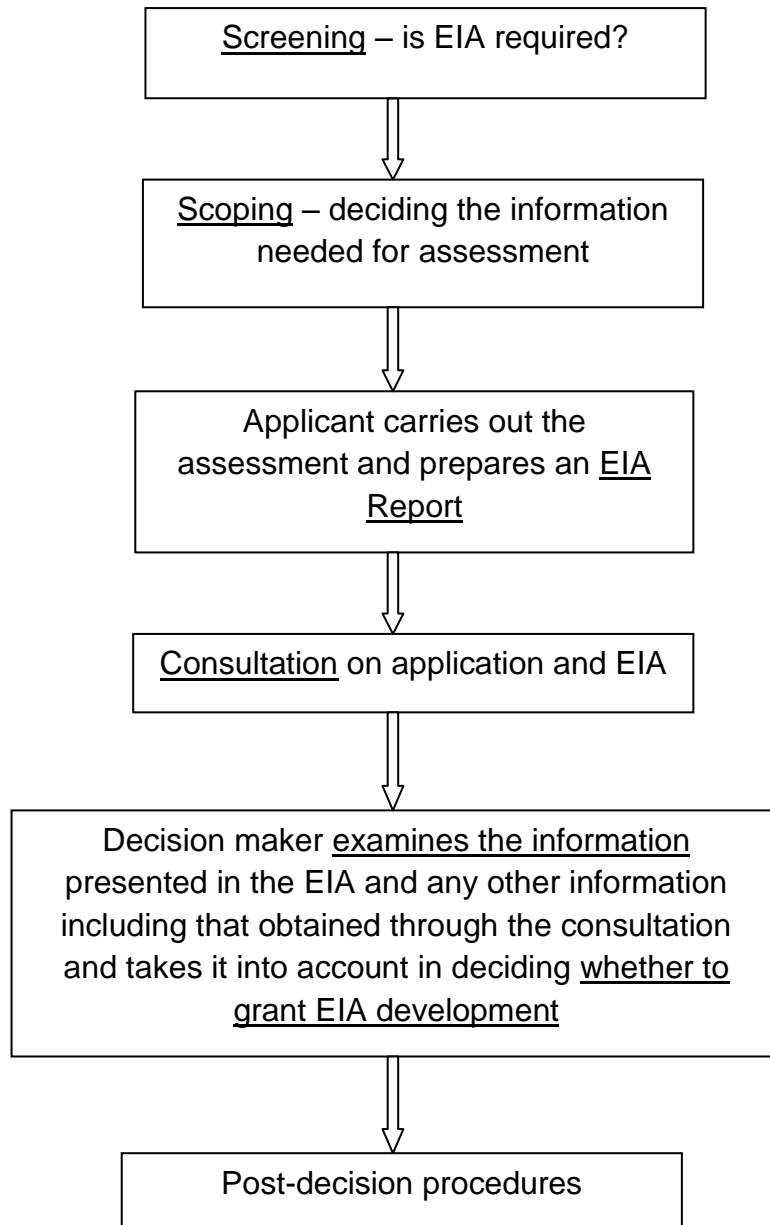
Some project types are always considered likely to have significant effects on the environment and must be subject to an EIA in all cases. These project types are listed in Annex I of the EIA Directive. They include nuclear power stations, oil refineries and long distance railways.

Other project types are only considered likely to have significant effects in some cases depending on their nature, size and location. These project types are listed in Annex II of the EIA Directive. These include urban development and smaller energy projects. Projects listed in Annex II must be subject to EIA only where it is considered they are likely to have significant effects on the environment. These include 'Water management projects for agriculture, including irrigation and land drainage projects' and it is these type of water resource projects that are covered by the water resources EIA Regulations.

The process for determining whether a project listed in Annex II is likely to have significant effects on the environment is usually referred to as 'screening'. Member States can decide whether a project listed in Annex II should be subject to EIA through a case-by-case examination and/or by setting thresholds or criteria.

Where an assessment is required, the applicant must provide specified information to the relevant competent authority – in the case of the water resources EIA Regulations, DAERA is the competent authority. The information enables the competent authority to make an informed decision on whether the project should be given EIA consent to proceed. It also requires that public and other bodies are consulted and given an opportunity to participate in the decision making process.

The main steps in the process are illustrated below:-



Part 3: Proposals for the transposition

The approach set out in this consultation follows the Northern Ireland principles for transposition. These include ensuring that we do not go beyond the minimum requirements of the Directive (i.e. avoid 'gold plating').

The approach we have taken to determine which applications for agricultural water resource projects should be subject to EIA has been to use a combination of case by case examination and a threshold. Projects falling below the threshold are considered unlikely, in light of the criteria set out in Annex III to the EIA Directive, to have significant effects for the purpose of the EIA Directive and do not need to be considered any further for EIA.

What would the changes mean?

In general terms, the main change proposed to the EIA process is that certain information currently required at the end of the EIA process (consent stage) is required upfront (screening stage). This should mean that the screening decision can be dealt with more effectively as there will be more detailed information available at this early stage. This may lead to an increase in the use of agents/experts from the start by applicants, because of this initial increase in information at the start of the process. In principle, although this could potentially increase the costs in the initial stages of the process it should mean that the screening decision can be dealt with more effectively as there will be more detailed information available at this early stage.

However, it is important to note that the water resources EIA Regulations have been in place since 2005 and it is understood that there have been no relevant projects for which an Environmental Impact Assessment has been required under the Regulations in the past decade. The majority of potential projects either fall outside the scope of the regulations due to the volumes of water involved being too small or are assessed under the Department's abstraction licensing legislation and are not considered likely to have a significant effect on the environment. Some potentially relevant projects also fall within the scope of other EIA legislation. **Therefore, given that there are unlikely to be many, if any, projects falling within the scope of the water resources EIA Regulations, it is unlikely that the proposed changes to the Regulations as a result of the 2014 Directive will have any significant impact, financial or otherwise.**

The proposals we are consulting on/amendments to the regulations

Section 1 - Common Provisions

Co-ordinated and joint procedures (*Article 1(2)(a) of the 2014 Directive – amendment to Article 2(3) of the EIA Directive*)

The 2014 EIA Directive has introduced a new requirement at Article 2(3) of the EIA Directive. Where a project is subject to an assessment under the EIA Directive and also under the Habitats and/or Wild Birds Directives, the amended EIA Directive requires that either a 'co-ordinated procedure' or a 'joint procedure' should be used. The co-ordinated procedure is undertaken by designating a lead authority to co-ordinate the individual assessments, whereas the joint procedure requires a single assessment. We are able to choose which we use.

Co-ordinated procedures provide the flexibility for applicants around the phasing and timing of EIA and Habitats Regulations Assessment (HRA). For joint procedures Member States try to provide for a single assessment of the environmental impact of a project.

We propose to copy out the requirements to allow for a coordinated procedure.

Screening (*Articles 1(3) and (4) of the 2014 Directive – amend Articles 3 and 4 of the EIA Directive*)

The competent authority uses ‘screening’ to decide if a proposal is likely to have significant environmental effects and, therefore, if an EIA is required. The 2014 Directive introduces a new detailed list of the information that the applicant must provide to the competent authority to help it screen the application.

A change brought in by the 2014 Directive is that applicants provide results of other assessments relating to the project’s effects on the environment at the screening stage. Currently this is provided later in the EIA process. This could include assessments under the Water Framework Directive (2000/60/EC), the Strategic Environmental Assessment Directive (2001/42/EC) and the Habitats Directive (92/43/EEC). The applicant can also provide details of any features of the project designed to avoid or prevent significant adverse effects on the environment. Article 4(5) of the EIA Directive requires the competent authority to make its screening decision on the basis of the information provided by the applicant, taking into account, where relevant, the results of preliminary verifications or assessments carried out pursuant to Union legislation other than the EIA Directive.

The 2014 EIA Directive also requires that the competent authority sets out the main reasons why an EIA is needed or not, and publishes this information. When an EIA is not needed, the published decision must list any features of the project and/or action to be taken to avoid or prevent what might otherwise be negative effects on the environment.

Where a relevant application is made before 17 May 2017, Article 3(1) of the 2014 EIA Directive allows that application to be screened under the old rules. We propose to ‘copy out’ these new requirements in the regulations.

Thresholds (*Article 1(4) of the 2014 Directive – amendments to Articles 4(3), (4) and (5) of the EIA Directive*)

The 2014 Directive amends the process that allows Member States discretion to set thresholds beneath which projects are not required to undertake an EIA or the level to be met before an application needs to go through the scoping stage of the EIA process. The amendments also allow for absolute thresholds to apply, i.e. if EIA consent is automatically required.

The water resources EIA Regulations are only used where other EIA Regulations do not apply. Within the current Regulations, a project cannot be considered a ‘relevant project’ (and, therefore, potentially require an EIA) if it involves the abstraction, diversion or impoundment of less than 200 m³ of water in any period of 24 hours.

Time period for making screening decisions (*Article 1(4) of the 2014 Directive – amendment to Article 4 of the EIA Directive*)

The 2014 Directive introduces the requirement that the competent authority must make its screening decision as soon as possible and within 90 days from the date the developer provided all the information required. This period can be extended in exceptional circumstances with the authority explaining the reason for the extension.

The water resources EIA Regulations currently provide a 28-day period for screening opinion from initial request or submission of further information, unless extended by agreement with the applicant. If the Department wishes to extend this deadline for making a determination they would inform the applicant in writing giving the reasons for the extension and the date

when its determination will be made, which we propose keeping. We will copy out the requirements to conclude a decision within 90 days.

Scoping (*Article 1(5) of the 2014 Directive – amending Article 5(1) and (2) of the EIA Directive*)

After the screening stage, if an application needs an EIA, it can go through the ‘scoping’ stage. Scoping is voluntary and allows an applicant to ask a competent authority to list the scope and level of detail of the information to be included in their EIA Report.

The 2014 Directive introduces a new requirement that if a scoping opinion has been requested, the EIA Report should be ‘based on’ that opinion. Also, it makes provision for regulators to make scoping a mandatory rather than voluntary part of the EIA process.

Before issuing a scoping opinion the competent authority must consult with other defined authorities that may have an interest in the proposals. The scoping opinion given must account for information provided by the applicant on the project, such as its location, technical capacity and its likely impact on the environment.

The EIA Directive sets out the minimum information that an application has to include for the assessment process. The current EIA Directive includes this in Annex IV together with a longer list of topics that should be covered, if relevant. The 2014 Directive adds the minimum requirements to the EIA Directive in Article 5(1), so that it sets out what should be included in an EIA Report. This includes mitigation measures, a non-technical summary and a description of reasonable alternatives (if the applicant has already studied these).

We propose to copy out these new requirements in the regulations.

Consulting others through the EIA process - Consultation (*Article 1(6) of the 2014 Directive – amending Article 6 of the EIA Directive*)

The competent authority has to publish its notice of applications that require an EIA, giving the public and other stakeholders opportunity to review and comment on the EIA’s findings. Feedback must be considered before issuing a consent decision. The 2014 Directive requires that information is made available electronically, in addition to traditional methods. Competent authorities can add newspaper notices to the ways of consulting.

The 2014 Directive adds a new minimum time for public consultations (on the EIA Report) of at least 30 days. This is an increase from 28 days.

We propose to copy out these new requirements into the regulations.

Consultations on trans-boundary effects of a project (*Article 1(7) of Directive 2014/52/EU – amends article 7(4) of the EIA Directive*)

Where a project is likely to have a significant effect on the environment in another country in the EU, the 2014 Directive adds that public consultations on projects can be run by an appropriate joint body.

We propose to copy out these new requirements into the regulations.

Consent - Explaining Decisions and Monitoring of significant environmental effects (*Article 1(9) of the 2014 Directive – inserts new provision Article 8a into the EIA Directive*)

Following consultation, where the competent authority decides to grant consent for a project, the decision is given in writing. The decision includes: the reasoned conclusion; environmental

conditions; and a description of any parts or actions in the project to reduce the risk of significant adverse effects on the environment. Where the decision is to refuse consent, the main reasons for the refusal are given.

The decision will also include any monitoring measures. The monitoring, including how long it happens, should be proportionate to the nature, location and size of the project and the significance of its effects on the environment. We can keep existing monitoring arrangements.

The authority must then inform the public and the statutory consultation bodies about the decision and its content, including a summary of the results of the consultation.

We propose to copy out these new requirements.

The environmental impact assessment process

Article 1(1) of 2014 Directive introduces a definition of environmental impact assessment:

“a process consisting of:-

- a) the preparation of an Environmental Impact Assessment Report by the applicant, as referred to in Article 5(1) and (2);
- b) the carrying out of consultations as referred to in Article 6 and, where relevant, Article 7;
- c) the examination by the competent authority of the information presented in the Environmental Impact Assessment Report and any supplementary information provided, where necessary, by the applicant in accordance with Article 5(3), and any relevant information received through the consultations under Articles 6 and 7;
- d) the reasoned conclusion by the competent authority on the significant effects of the project on the environment, taking into account the results of the examination referred to in point (iii) and, where appropriate, its own supplementary examination; and
- e) the integration of the competent authority's reasoned conclusion into any of the decisions referred to in Article 8a”.

The 2014 Directive clarifies that the EIA should identify, describe and assess in an appropriate manner, in the light of each individual case the direct and indirect significant effects of a project. The list of factors to consider has been amended to:-

- a) population and human health;
- b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and wild birds protected under Directive 2009/147/EC;
- c) land, soil, water, air and climate;
- d) material assets, cultural heritage and the landscape; and
- e) the interaction between the factors referred to in points (a) to (d).

The EIA should also include, where relevant, the expected effects on the factors listed above, deriving from the vulnerability of the project to risks of major accidents and/or disasters that are relevant to the project concerned.

We propose to copy out these new requirements in to the regulations.

Related requirements

The 2014 Directive introduces several other related requirements:

Competent experts (Article 5(3) of the 2014 Directive – amends Article 5(3) of the EIA Directive)

The EIA report must be prepared by persons who (in the opinion of the Department) have sufficient expertise (taking into account factors such as their qualifications and experience) to ensure the completeness and quality of the report. The competent authority must ensure that

it has, or has access as necessary to, sufficient expertise to examine the EIA Report. We propose to copy out these requirements in the regulations.

Conflicts of interest (*Article 1(9) of the 2014 Directive – inserts Article 9a into the EIA Directive*)

The competent authorities have to be objective and avoid conflicts of interest. Where the competent authority is also the applicant, there must be appropriate separation between the people making the application and the people carrying out the competent authority jobs.

For the water resources EIA Regulations we propose to copy out these new requirements into the regulations.

Penalties (*Article 13 of the 2014 Directive – inserts Article 10a into the EIA Directive*)

The 2014 Directive requires that we must have penalties for infringements of our EIA regulations. The penalties have to be effective, proportionate and dissuasive.

The current water resources EIA Regulations do not include any penalty provisions, however, enforcement and offence provisions are included in the Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2010, through which applications for licenses for relevant projects (under the water resources EIA Regulations) will be made. The Department will consider whether any further requirements around penalties are appropriate.

Consultation Question – Do you have any views on the proposed changes to the water resources EIA Regulations?

Part 4: Mandatory Consultation Arrangements

Equality Impact Assessment

Human Rights Act 1998

The Human Rights Act 1998 implements the European Convention on Human Rights. The Act makes it unlawful for any public authority to act in a way that is incompatible with those rights.

The Department considers that the proposals contained in this consultation paper are compatible with the Human Rights Act 1998.

Rural Proofing

Rural proofing is a process to ensure that all relevant Executive policies are examined carefully and objectively. It determines whether or not these policies have a different impact in rural areas from that elsewhere, given the particular characteristics of rural areas.

Consideration should be given to the policy adjustments that could be made to reflect rural needs so that, as far as possible, public services are accessible on a fair basis to the rural community.

The water resources EIA Regulations relate to the assessment of water management projects for agriculture and therefore by their nature are more likely to have an impact on people in rural communities. However, the water resources EIA Regulations form only one element of the environmental impact assessment legislation in Northern Ireland and it could not be construed that the general environmental impact assessment legislation has a different impact on the rural community. Furthermore the purpose of the water resources EIA Regulations is to protect the surrounding environment from the negative impact of any large scale agricultural water management projects and it is important to note that there have been no instances where an environmental impact assessment has been required for a relevant project under the current Regulations. Thus the intended effect of the Regulations is to have a positive impact on the rural environment and the likely extent of the application of the Regulations is minimal. Therefore it is not considered that the proposals set out in the consultation document will have a negative impact on the rural community.

Initial Regulatory Impact assessment

The Department has undertaken an initial assessment of cost to business of the proposed changes to the water resources EIA Regulations and this has shown that there will be no additional costs associated with the proposed new Regulations as it is not anticipated that there will be any change in terms of the number of relevant projects considered under the Regulations. While the Directive overall aims to reduce the burden by reducing the number of cases that go through the EIA process, the benefits will be in respect of bigger developments.

The water resources EIA Regulations would only be used when no other EIA regulations apply and the evidence to date suggests that very few projects will come within the scope of the Regulations. We expect these changes to add no additional costs to business.

Views and evidence of any direct costs to business of the changes proposed to the water resources EIA regulations are welcomed. These views and evidence will be used in making a further assessment of the direct costs to business following this consultation.

Views and evidence of direct costs to business of the changed proposed to the water resources EIA regulations are welcome.

Annex A: Initial RIA

Title: Consultation on proposed new Water Resources (Environmental Impact Assessment) Regulations to implement Directive 2014/52/EU on the assessment of the effects of certain public and private projects on the environment.	Regulatory Impact Assessment (RIA)
	Date: February 2017
	Type of measure: Secondary Legislation
Lead department or agency: Department of Agriculture, Environment and Rural Affairs.	Stage: Development
	Source of intervention: EU
Other departments or agencies:	Contact details: Anthony Courtney Regulatory and Natural Resources Policy Division 44-58 May Street Town Parks Belfast BT1 4NN

Summary Intervention and Options

<p>What is the problem under consideration? Why is government intervention necessary? (7 lines maximum)</p> <p>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 of Agriculture, Environmental and Rural Affairs is responsible for the proper transposition of this Directive in respect of water resources to avoid the potential for infraction proceedings in the future.</p>
<p>What are the policy objectives and the intended effects? (7 lines maximum)</p> <p>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 of projects with a view to reducing their impact on the environment. The provisions of Directive 2014/52/EU are intended to lighten unnecessary administrative burdens, reinforce the quality of decision-making, improve current levels of environmental protection and introduce a more harmonised regulatory framework, with a view to making business decisions on public and private investments more sound, more predictable and sustainable in the longer term. It will also ensure any decisions granting agricultural water resources projects which fall within the scope of the Regulations will be made in the full knowledge of any likely significant effects on the environment.</p>

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 Directive 2014/52/EU would lead to potential infraction proceedings being carried out by the EU on failure to transpose. Therefore the preferred option is to transpose Directive 2014/52/EU and this could only be achieved by way of secondary legislation.

Will the policy be reviewed? It will be reviewed**If applicable, set review date:** N/A

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

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 type="checkbox"/> No <input type="checkbox"/>	Small Yes <input type="checkbox"/> No <input type="checkbox"/>
	Medium Yes <input type="checkbox"/> No <input type="checkbox"/>	Large Yes <input type="checkbox"/> No <input type="checkbox"/>

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

Approved by: _____ Date: _____

Summary: Analysis and Evidence Policy Option 1

Description: Transposition of Directive 2014/52/EU

ECONOMIC ASSESSMENT (Option 1)

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				

Description and scale of key monetised costs by ‘main affected groups’ Maximum 5 lines

Easier access to necessary environmental information for applicants for relevant EIA projects that come under the scope of the Regulations. Co-ordination of assessments. While this cannot be assessed in purely financial terms it is a lightening of the regulatory burden on business.

Other key non-monetised costs by ‘main affected groups’ Maximum 5 lines

Directive 2014/52/EU is intended to lighten unnecessary administrative burdens, reinforce the quality of decision-making, improve current levels of environmental protection and introduce a more harmonised regulatory framework, with a view to making business decisions on public and private investments more sound, more predictable and sustainable in the longer term in relation to decisions on applications for projects which may have significant environmental effects.

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				

Description and scale of key monetised benefits by ‘main affected groups’ Maximum 5 lines

As above this cannot be calculated as it is dependent upon the number, nature, scale and location of future proposals which may come within the scope of these Regulations. Based on the experience of the number of projects which came within the scope of the old Regulations, it is highly unlikely that many, if any, projects will ever require an environmental impact assessment under the Regulations.

Other key non-monetised benefits by ‘main affected groups’ Maximum 5 lines

Clarity on the environmental information required for EIA development proposals and source of information from key consultees/stakeholders.

Key Assumptions, Sensitivities, Risks Maximum 5 lines

BUSINESS ASSESSMENT (Option)

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

The Directive will be similarly transposed in the Republic of Ireland and the rest of the UK.

Evidence Base

There is discretion for departments and organisations as to how to set out the evidence base. It is however desirable that the following points are covered:-

- Problem under consideration;
- Rationale for intervention;
- Policy objective;
- Description of options considered (including do nothing), with reference to the evidence base to support the option selection;
- Monetised and non-monetised costs and benefits of each option (including administrative burden);
- Rationale and evidence that justify the level of analysis used in the RIA (proportionality approach);
- Risks and assumptions;
- Direct costs and benefits to business;
- Wider impacts (in the context of other Impact Assessments in Policy Toolkit Workbook 4, economic assessment and NIGEAE).

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 and it is the responsibility of the Department of Agriculture, Environment and Rural Affairs to transpose this amending EIA Directive in respect of agricultural water resources projects into legislation for Northern Ireland. 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.

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 of Agriculture, Environment and Rural Affairs 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 with respect to water resources projects by 16 May 2017.

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

Directive 2014/52/EU was developed to strengthen the EIA process within Member States. The options in relation to this were to either transpose the Directive as appropriate or to do nothing. To do nothing while considered was not a realistic option as the amended EIA Directive would have to be implemented in Northern Ireland and other jurisdictions within the Member State to prevent the potential for infraction proceedings being carried out by the EU. The Department therefore had limited scope in putting into legislation the requirements as set out in the amended EIA Directive.

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

As the amended EIA Directive streamlines the already established requirements in relation to EIA it is considered by the Department of Agriculture, Environment and Rural Affairs that this will not have any negative cost implications for businesses and 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 (and by extension Directive 2014/52/EU) would be similar to the resources required to fully implement the current Directive (2011/92/EU) and this would include administrative matters. In particular, there have been no applications under the current water resources Regulations for relevant projects which have required an environmental impact assessment to be carried out so therefore the administrative burden is likely to be very low.

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 Agriculture, Environment and Rural Affairs in relation to the RIA, the rationale being that the amended EIA Directive has been developed to strengthen and enhance the EIA process and it is considered that no 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, challenges as well as issues with resource efficiency, climate change, biodiversity and disaster prevention. It is assumed by the Department of Agriculture, Environment and Rural Affairs 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

It is anticipated that the direct costs to business may decrease with the introduction of the amended EIA Directive into the general EIA legislation in Northern Ireland as procedures are streamlined. Applications that come within the scope of the water resources EIA Regulations in Northern Ireland are rare and no environmental impact assessments have been required to be carried out under the current Regulations and therefore there are no anticipated direct costs and benefits to business as a consequence of these proposed Regulations.

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 permission to grant any applications under the Regulations 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.

Annex B: List of Individuals/Organisations consulted

Friends of the Earth

Mourne Heritage Trust

National Trust

Northern Ireland Environment Link

NI Freshwater Task Force

Royal Society for the Protection of Birds

Rural Community Network

Rural Development Council for Northern Ireland

The Rivers Trust

Ulster Angling Federation Ltd

Ulster Farmers Union

Ulster Society for the Protection of the Countryside

Ulster Wildlife Trust

Waterways Ireland

Wildfowl and Wetland Trust

World Wildlife Fund (NI)