

REGULATORY IMPACT ASSESSMENT
The Planning (Environmental Impact Assessment) Regulations (Northern Ireland)
2015 (S.R. 2015 No. 74)

1. Title of Proposal

The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 (S.R. 2015 No. 74).

2. Purpose and intended effect of measure

i) The objective:

Under the Planning Act (NI) 2011 (the 2011 Act) planning powers will transfer to the new district councils. The main objective of the Statutory Rule is to support this transfer by ensuring that the requirements of EC Directive 2011/92/EU (the EIA Directive) continue to be met in respect of the planning process in Northern Ireland after April 2015.

ii) The background:

The EIA Directive requires an assessment of the effects of certain public and private projects on the environment before development consent is granted. Since the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012 (the 2012 Regulations) already apply the EIA Directive to the current unitary planning authority system, they require technical amendment only to accommodate the new two-tier planning model. In some instances this consists of a change of wording from 'the Department' to 'the council or, as the case may be, the Department'. In others, the specific duties of the council and the Department are set out separately for clarity and ease of understanding. The 2015 Regulations will replace the 2012 Regulations.

The Regulations will affect Northern Ireland only.

Key changes are:

- new provision for applications referred to the Department under section 29 of the 2011 Act
- new provision for modification of the Regulations in respect of councils' own applications

iii) Risk Assessment and Rationale for Government Intervention:

The Department must ensure that the requirements of the EIA Directive are met following transfer of planning powers to councils in April 2015. This necessitates a revision of the 2012 Regulations to provide a statutory framework for the Department and councils to meet their obligations as competent authorities under the new two-tier planning model.

3. Options Appraisal

Option 1 – Do Nothing

This is not a realistic option as this would mean that the Department would continue to be the sole competent authority which would negate the purposes of the transfer of powers to councils under the 2011 Act.

Option 2 – Amend the 2012 Regulations

This is not a viable option as although the necessary amendments are technical in nature, it would be unsatisfactory under the new two-tier planning model to have the original and amended provisions in separate instruments.

Option 3 – Replace the 2012 Regulations

This is the preferred option as the requirements of the EIA Directive would be met in a single instrument under the new two-tier planning model.

4. Costs and Benefits

Option 1: Do Nothing

While there are no costs associated with this option it is not considered viable as the requirements of the EIA Directive must be met under the new two-tier planning model.

Option 2: Amend the 2012 Regulations

Amendment would allow the requirements of the EIA Directive to be met. However the legislation would be less accessible to competent authorities, developers, applicants and members of the public because it would then be split across two instruments; the 2012 Regulations and the 2015 Amendment Regulations.

Option 3 – Replace the 2012 Regulations

This is the preferred option, with optimum benefit. It will ensure that the requirements of the EIA Directive are met in a single instrument under the new two-tier planning model. The legislation will be fully accessible. This option would not result in additional costs to those who engage with the planning system and there is no anticipated additional cost to councils as the financial transfer arrangements will include provisions for the new structures.

5. Sectors and Groups Affected

The main sectors and groups affected are the Department, councils and users of the planning system.

6. Enforcement and Sanctions

The Department, councils and the Planning Appeals Commission will enforce the Regulations by applying the statutory requirements to planning applications for projects with significant environmental effects. There are no new enforcement provisions or sanctions.

7. Consideration of Impacts

Equality Impact Assessment

An Equality Impact Assessment screening carried out in respect of this proposal found no evidence of any additional impact on any of the Section 75 categories.

Health Impact

No impact on health has been identified.

Small Firms Impact Test

There will be no adverse impact on small firms as the Regulations do not impose any new requirements on users of the planning system.

Human Rights Assessment

The Department considers that the proposed amendments are fully compliant with the Human Rights Act 1998.

Rural Impact Assessment

There will be no significant differential impact of the proposals between urban and rural areas because of the specific scope and technical nature of the changes.

8. Monitoring and Review

Under the provisions of section 228 of the 2011 Act the Department must carry out a review and report back to the Assembly on the implementation of the Act three years after planning functions transfer to councils and every five years thereafter. Although these Regulations are not being made under the powers set out in the 2011 Act, their effectiveness will be monitored post-transfer to ensure that they achieve the policy objective.

9. Consultation

As these regulations constitute technical amendments they have not been subject to public consultation.

10. Summary and Recommendations

Option 3 is the recommended option as it will ensure that the requirements of the EIA Directive are met in a single instrument under the new two-tier planning model. The legislation will be fully accessible.

Declaration:

I have read the Regulatory Impact Assessment and I am satisfied that the balance between cost and benefit is the right one in the circumstances.

Signed by a senior officer of the Department of the Environment.



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Date: 25th February 2015

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