

Consultation on

Environmental Impact Assessment

**amending Scottish Environmental Impact
Assessment Regulations to Transpose
Directive 2014/52/EU**



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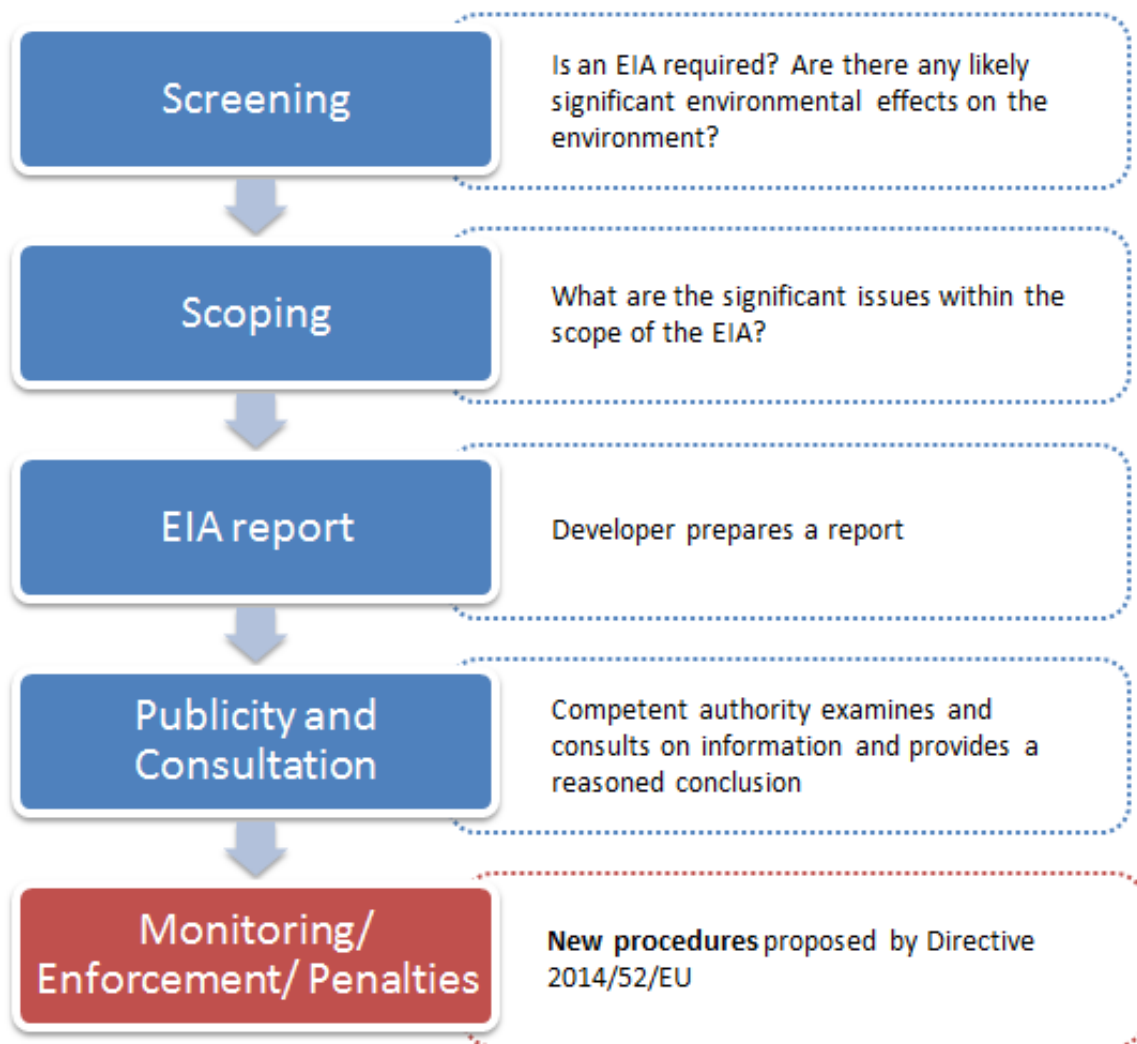
PART ONE - INTRODUCTION

1. Scottish Ministers are inviting comments on the enclosed consultation which sets out proposals for implementing the European Directive 2014/52/EU amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (known as the Environmental Impact Assessment or 'EIA' Directive).
2. The Directive's main aim 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 reduce their impact on the environment.
3. The requirements of the Directive form part of European law and must be incorporated into the domestic legislation of Member States. The Directive leaves it to Member States to decide how best to transpose these requirements.
4. Following the EU Referendum the Scottish Government is committed to explore all options to secure Scotland's interests and protect its relationship with the EU. The UK, and therefore Scotland, continues to be a member of the EU and as such is statutorily obligated to transpose the Directive into Scottish legislation.
5. The Scottish Government's Better Regulation agenda seeks to support and promote sustainable economic growth through ensuring regulation adheres to the five principles of proportionality; consistency; accountability; transparency; and targeted regulation. The new draft regulations seek to be in keeping with these principles and minimise additional regulatory burden whilst protecting the environment.
6. In Scotland the EIA Directive has been transposed into Scots law through a number of Scottish Statutory Instruments relating to individual EIA consenting regimes including; Planning, Energy, Marine Licensing, Trunk roads, Transport and Works Projects, Agriculture, Land Drainage, Forestry, Flood Management, Ports and Harbours and Controlled Activities.
7. To minimise duplication through the consultation process, this consultation seeks your views on changes to eight of the above regimes. Ports and Harbours, Flooding and Controlled Activities will progress the Transposition separately.
8. We have sought to provide as much consistency as possible in our approach to the transposition across the regimes, where there are proposed differences to the approach taken by individual regimes these are highlighted throughout the consultation. You can see how the proposals have been drafted in legislation through the accompanying draft legislation; the Town and Country Planning (Scotland) Regulations and The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017.
9. This consultation will be open for 12 weeks from **09 August to 31 October 2016**.

Background

What is an Environmental Impact Assessment?

- 10. An Environmental Impact Assessment (EIA) is a means of drawing together, in a systematic way, an assessment of a project's likely significant effects on the environment. This process helps to ensure that the public have a chance to provide their views and the relevant authority giving the development consent (the 'competent authority') makes its decision in the knowledge of any likely significant effects on the environment prior to consent being given. The Directive therefore sets out a procedure that must be followed for certain types of project before they can be given 'development consent'.
- 11. The EIA process is made up of several stages which are set out below.



How is EIA Applied in Scotland?

12. In Scotland there are eleven separate EIA regimes with their own competent authority/authorities and legislation. In relation to roads for which the Scottish Ministers are the roads authority; the Scottish Ministers are both developer and competent authority.
13. A summary of the eight regimes to which this consultation relates are summarised below, alongside working titles for the amended draft legislation which will be laid in Parliament to implement the changes of the Directive.

Planning

14. The Planning System in Scotland is used to make decisions about the future development and use of land in our towns, cities and countryside. It considers where development should happen, where it should not and how development affects its surroundings. The system balances different interests to make sure that land is used and developed in a way that creates high quality, sustainable places.
15. For the majority of planning applications an EIA is not required, and the usual planning process provides a means of assessing the environmental effects of a proposal. However, in cases where a proposal is likely to have a significant effect, these powers are further supplemented by the Town and Country Planning EIA Regulations.
16. The draft Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 can be viewed at <https://consult.scotland.gov.uk/eia-transposition-team/transposition-of-environmental-impact>

Energy

17. In Scotland, consent from Scottish Ministers is required to construct, extend or operate electricity generating stations with a generating capacity in excess of 50 megawatts, or to install or keep installed overhead electricity lines, under sections 36 and 37 of the Electricity Act 1989 respectively.
18. The existing Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 define the circumstances under which such a development proposal should be subject to an EIA, and prescribe the information an applicant is required to submit as part of an Environmental Statement.
19. The regulations provide that Ministers may not consent any development without consideration of all the environmental information, and they set out the requirements for publication of any such information to allow public participation in the process.
20. The draft Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 can be viewed at <https://consult.scotland.gov.uk/eia-transposition-team/transposition-of-environmental-impact>

Marine Licensing

21. Certain activities require a licence to be issued before they can be lawfully carried out in Scotland's seas. Licences are issued under the Marine (Scotland) Act 2010 or the Food and Environment Protection Act 1985 for certain activities between 0-12 nautical miles and under the Marine and Coastal Access Act 2009 for certain activities between 12-200 nautical miles. Other licensing regimes apply in relation to other licensable activities in the marine area (for example oil and gas).
22. Licensable activities under the Acts specified above include (but are not limited to) the deposit of substances or objects into the sea or on or under the sea bed, the removal of substances or objects from the sea bed, construction, alteration and improvement works and dredging.
23. Marine licences are issued on behalf of Scottish Ministers by Marine Scotland Licensing Operations Team (MS-LOT) who provide a "one-stop-shop" for all marine licence applications determined by them in Scottish waters. MS-LOT also process section 36 consent applications made under the Electricity Act 1989 on behalf of Scottish Ministers for offshore renewable projects in Scottish waters out to 200 nautical miles.
24. For the majority of marine licence applications an EIA is not required, and the usual marine licence application process provides a means of assessing the environmental effects of a proposal. However, in cases where a proposal is likely to have a significant effect on the environment, these powers are further supplemented by the current UK Regulations ([The Marine Works \(Environmental Impact Assessment\) Regulations 2007](#)).
25. Regulations will be made to transpose the EIA Directive, as amended, for marine licensing in Scotland's seas for which the Scottish Ministers have devolved competence in place of the current UK Regulations.

Trunk Roads

26. The Roads (Scotland) Act 1984 is used by the Scottish Ministers in relation to the management of the strategic road network and includes provisions relating to the promotion of construction and improvement works.
27. The majority of works undertaken on the network will not require an EIA and environmental issues will be considered through non-statutory environmental review process. In relation to major works that have the potential for significant effects on the environment, the Act requires that these are made subject to EIA.
28. [The Roads \(Scotland\) Act 1984](#) will be amended to reflect the transposition.

Transport and Works Projects

29. Transport and Works (Scotland), or TAWS, is an order-making process which avoids the need for private Bills for transport-related developments. It enables orders to be made authorising the construction or operation of railways, tramways, other modes of guided transport, trolley vehicle systems and inland waterways (e.g. canals). Applications for TAWS orders are made to the Scottish Ministers. The requirements of the EIA Directive have been applied to applications for TAWS orders through the Applications and Objections Rules.
30. [The Transport and Works \(Scotland\) Act 2007](#) and [The Transport and Works \(Scotland\) Act 2007 \(Applications and Objections Procedure\) Rules 2007](#) will be amended to reflect the transposition.

Agriculture

31. The Environmental Impact Assessment (Agriculture) (Scotland) Regulations 2006 applies to the use of uncultivated or semi-natural areas for intensive agricultural purposes, and to projects involving the restructuring of rural land holdings which exceed size thresholds or are on sensitive areas. For such projects, an application for a screening decision must be submitted to Scottish Ministers.
32. [The Environmental Impact Assessment \(Agriculture\) \(Scotland\) Regulations 2006](#) will be amended to reflect the transposition.

Land Drainage

33. The Environmental Impact Assessment (Scotland) Regulations 1999 applies to land drainage works which are the subject of an application for an 'Improvement Order' (under the Land Drainage (Scotland) Act 1958), which are likely to have a significant effect on the environment, and where the area of the proposed works is either larger than 1 hectare or located within a Site of Special Scientific Interest. For such projects, an Environmental Statement must be provided to Scottish Ministers.
34. [Part IV of The Environmental Impact Assessment \(Scotland\) Regulations 1999](#) will be amended to reflect the transposition.

Forestry

35. Forestry Commission Scotland (FCS) serves as the forestry directorate of Scottish Government, advising on and implementing forestry policy, including regulation of forestry.
36. Where proposed forestry projects exceed certain size thresholds and could therefore have a significant impact on the environment, they are considered under the EIA (Forestry) Regulations. FCS is the competent authority. EIA consent is not required for the majority of forestry projects, but where consent is required; applicants must prepare an environmental statement.

37. The types of forestry work that EIA regulations apply to, if above a certain area threshold, are:
- Afforestation: planting new woods and forests, including direct seeding or natural regeneration, planting Christmas trees or short rotation coppice;
 - Deforestation: felling woodland to use the land for a different purpose;
 - Forest roads: the formation, alteration or maintenance of private ways on land used (or to be used) for forestry purposes. This includes roads within a forest or leading to one;
 - Forestry quarries: quarrying to obtain materials required for forest road works on land that is used, or will be used, for forestry purposes, or on land held or occupied with that land.
38. [The Environmental Impact Assessment \(Forestry\) \(Scotland\) Regulations 1999](#) will be amended to reflect the transposition.

Why is EIA Changing?

39. Since the EIA Directive first came into effect in 1988 it has been amended several times, the most recent amendments were made by the 2011/92/EU (Public Participation) Directive which consolidated the changes that came before it. The 2011 Directive has been amended through the new Environmental Impact Assessment (EIA) Directive 2014/52/EU which will be implemented by Member States by 16 May 2017.
40. The main aim of the Directive is to provide a high level of protection for the environment and to contribute to the integration of environmental considerations into the preparation of projects with a view to reduce their environmental impact, and this remains the case.
41. The European Commission website¹ states that the new Directive aims to simplify the rules for assessing the potential effects of projects on the environment in line with the drive for smarter regulation, aiming to lighten unnecessary administrative burdens. It states that the Directive 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.
42. The new approach also aims to be forward looking, by paying greater attention to threats and challenges that have emerged since the original rules came into force some 25 years ago. This means more attention to areas like resource efficiency, climate change and disaster prevention, which will be better reflected in the assessment process.
43. The main amendments are as follows:
 - Article 1(2)g Definition of EIA process
 - Article 2(3) Joint/Coordinated procedures
 - Article 3 Information to be assessed
 - Article 4(4) List of the information developer must supply for screening determination
 - Article 4(6) Maximum timeframe for screening opinion
EIA should only consider likely significant effects
 - Article 5(3) Use of competent experts
 - Article 6(2) Informing the public electronically
 - Article 8a(2) Stating reasons for refusing development consent.
 - Article 8a(1) Information to be contained in consent decision
 - Article 8a(4) Monitoring of significant adverse effects
 - Article 10a Penalties for infringements of national provisions

¹ (<http://ec.europa.eu/environment/eia/review.htm>)

Responding to this Consultation

44. We are inviting responses to this consultation by 31 October 2016
45. Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You can view and respond to this consultation online at <https://consult.scotland.gov.uk/eia-transposition-team/transposition-of-environmental-impact>. You can save and return your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of **31 October 2016**
46. If you are unable to respond online, please complete the Respondent Information Form (see "Handling your Response" below) and send it to:

EIA Transposition Team
Scottish Government
Area 2H South
Victoria Quay
Edinburgh
EH6 6QQ

Or by email to EIAconsultation2016@gov.scot

47. Questions are raised throughout the consultation, these can be answered in the questionnaire annexed to this consultation paper.

Handling your Response

48. If you respond using Citizen Space (<http://consult.scotland.gov.uk>), you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published.
49. If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form which is also included in Annex A to this document. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.
50. All respondents should be aware that the Scottish Government is subject to the provisions of the [Freedom of Information \(Scotland\) Act 2002](#) and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next Steps in the Process

51. Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.scotland.gov.uk>. If you use Citizen Space to respond, you will receive a copy of your response via email.
52. Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so.

Comments and Complaints

53. If you have any comments about how this consultation exercise has been conducted, please send them by email to EIAconsultation2016@gov.scot

Scottish Government Consultation Process

54. Consultation is an essential part of the policy-making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.
55. You can find all our consultations online: <http://consult.scotland.gov.uk>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.
56. Consultations may involve seeking views in a number of different ways, such as public meetings, focus groups, or other online methods such as Dialogue (<https://www.ideas.gov.scot>)
57. Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:
 - indicate the need for policy development or review;
 - inform the development of a particular policy;
 - help decisions to be made between alternative policy proposals;
 - be used to finalise legislation before it is implemented.
58. While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

PART TWO - PROPOSALS

Section 1. Assessment Process

Definition of EIA Process

Article 1(2)(g)

“environmental impact assessment” means a process consisting of:

- (i) the preparation of an environmental impact assessment report by the developer...*
- (ii) the carrying out of consultations ...;*
- (iii) 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 developer ... and any relevant information received through the consultations...;*
- (iv) 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*
- (v) the integration of the competent authority's reasoned conclusion into any of the decisions*

- 60. The Directive defines the EIA process stage by stage and replaces the current term “environmental statement” with the term “Environmental Impact Assessment Report” sometimes shortened in legislation to “EIA Report”.
- 61. This article also introduces the requirement for the competent authority to provide a reasoned conclusion which describes the impacts on the environment and the manner in which these have been dealt with. The reasoned conclusion by which the competent authority finalises its examination of the environmental impact of the project is already a part of an integrated development consent procedure.
- 62. This Article is mandatory and must be transposed across all regimes. Examples can be seen in the draft regulations for Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations (Town and Country Planning) in regulation 4 and for Electricity Works (Environmental Impact Assessment) (Scotland) Regulations (Electricity) in regulation 4.

Exemptions - Defence/Civil Emergencies

Article 1(3)

Member States may decide, on a case-by-case basis and if so provided under national law, not to apply this Directive to projects, or parts of projects, having defence as their sole purpose, or to projects having the response to civil emergencies as their sole purpose, if they deem that such application would have an adverse effect on those purposes.

- 63. This Article amends exemptions so that it only applies to projects where defence is the sole purpose or projects which are solely in response to civil emergencies.
- 64. Defence is a reserved matter therefore provisions concerning defence are covered by amendments to the relevant UK legislation. Draft provisions on civil emergencies are however proposed in relevant EIA regimes.
- 65. This will be transposed across all regimes. Examples can be seen in the draft regulations for Town and Country Planning in regulation 6(4) and for Electricity in regulation 6(5).

Coordinated Procedures

Article 2(3)

In the case of projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and from Council Directive 92/43/EEC and/or Directive 2009/147/EC of the European Parliament and the Council, Member States shall, where appropriate, ensure that coordinated and/or joint procedures fulfilling the requirements of that Union legislation are provided for.

In the case of projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and Union legislation other than the Directives listed in the first subparagraph, Member States may provide for coordinated and/or joint procedures.

Under the coordinated procedure referred to in the first and second subparagraphs, Member States shall endeavour to coordinate the various individual assessments of the environmental impact of a particular project, required by the relevant Union legislation, by designating an authority for this purpose, without prejudice to any provisions to the contrary contained in other relevant Union legislation.

Under the joint procedure referred to in the first and second subparagraphs, Member States shall endeavour to provide for a single assessment of the environmental impact of a particular project required by the relevant Union legislation, without prejudice to any provisions to the contrary contained in other relevant Union legislation.

- 66. In the case of projects for which there is an obligation to carry out an assessment under the EIA Directive and also under the Habitats and/or Birds Directives, the EIA Directive requires that either a **coordinated procedure** or a **joint procedure** should be used. The **coordinated** procedure is undertaken by designating a lead authority to coordinate the individual assessments, whereas the joint procedure requires a single assessment.
- 67. We feel that coordinated procedures offer the greatest flexibility for developers around the phasing and timing of EIA and Habitats Regulations Appraisal (HRA).
- 68. This Article is mandatory and must be transposed across all regimes. Examples can be seen in the draft regulations for Town and Country Planning in regulation 54(1) and for Electricity in regulation 36.

69. Finally, this article also includes provision such that Member States *may* choose to also include within the scope of their joint or coordinated procedure any assessments required under the Water Framework Directive, the Industrial Emissions Directive, the SEA Directive, the Waste Framework Directive, and the SEVESO III Directive.
70. Whilst we do not propose to legislate for mandatory coordination in these circumstances, we would welcome stakeholder views on whether, in the spirit of greater coordination, new EIA regulations should include express provision that no construction for an EIA development may take place until any relevant operational permits required under the Directives listed above have been granted.

Exemptions – Public Consultation

Article 2(5)

...in cases where a project is adopted by a specific act of national legislation, Member States may exempt that project from the provisions relating to public consultation laid down in this Directive, provided the objectives of this Directive are met.

71. This Article refers to developments such as those authorised by means of a Private or Hybrid Bill for example via private Bill procedures or an Order under the Transport and Works (Scotland) Act 2007. The Article now exempts these special projects from the requirement for public consultation.
72. It is our intention that the full publicity requirements of the Directive will not apply in respect of projects to the extent that they are directly authorised by means of such a Private or Hybrid Bill. These procedures have their own publicity requirements. Full publicity requirements will continue to apply to an Order under the Transport and Works (Scotland) Act 2007.

Question 1. Do you agree with proposals to provide for a coordinated rather than joint procedure?

Question 2. What would the regulatory impact be if legislation was introduced which required that no construction of any EIA development should take place until any relevant operational permits or consents required under the Habitats and Birds Directives, Water Framework Directive, the Industrial Emissions Directive, or the Waste Framework Directive had been granted?

Question 3. Do you have any further comments on the changes proposed to implement articles 1 and 2 of the EIA Directive?

Section 2. Information to be Assessed

Assessment Information

Article 3(1)

The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case, the direct and indirect significant effects of a project on the following factors:

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

73. This article sets out the broad requirements of the EIA process and the environmental factors to be considered, as appropriate, in the assessment as well as the interaction between those factors. It also clarifies that the EIA should only be assessing **significant** effects of the project on the environment.
74. Amendments have been made to some of the factors to take into account when considering what could be significantly affected by a development, including replacing “Human Beings” with “Population and Human Health” and “Flora & Fauna” with “Biodiversity.”
75. This Article is mandatory and must be transposed across all regimes. Examples can be seen in the draft regulations for Town and Country Planning in regulations 4(2) and 4(3) and for Electricity in regulation 4(2) and 4(3).
76. **Annex IIA** sets out the information in detail to be provided by the developer to decide if the development should be subject to an EIA Report. This has been transposed into the draft regulations for Town and Country Planning in regulation 8 and for Electricity in regulation 8. The selection criteria set out in Annex III as transposed by Schedule 3 for both Town and Country Planning and Electricity.
77. **Annex III1(g)** gives examples of the above amendments. Risks to human health include water contamination or air pollution, therefore this should not be understood as requiring consideration of social and/or economic impacts. The addition of the new reference to biodiversity encourages a more holistic approach to considering the interrelationships within the natural environment.

78. **Annex IV(4)** of the Directive provides a full description of the factors specified in Article 3(1) likely to be significantly affected by the project: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.

Assessing the Risk of Major Accidents

79. **Article 3(2)** of the Directive requires consideration of the expected effects deriving from the vulnerability of the project to risks of major accidents and/or disasters that are relevant to the project concerned for example including those caused by climate change.
80. This Article is mandatory and must be transposed across all regimes. Examples can be seen in the draft regulations for Town and Country Planning in regulation 4(4) and for Electricity in regulation 4(4).
81. **Annex III1(f)** expands the description to state 'the risk of major accidents and/or disasters which are relevant to the project concerned, including those caused by climate change, in accordance with scientific knowledge'. This could include flood risks and storm events.

Question 4. Will you have to change your current practice to take account of the risk of major accidents?

Question 5. Do you consider that our approach to transposition of information to be assessed appropriately implements the requirements of the Directive?

Section 3. Screening

Information to be Provided for Screening

Article 4(4)

Where Member States decide to require a determination for projects listed in Annex II, the developer shall provide information on the characteristics of the project and its likely significant effects on the environment. The detailed list of information to be provided is specified in Annex IIA. The developer shall take into account, where relevant, the available results of other relevant assessments of the effects on the environment carried out pursuant to Union legislation other than this Directive. The developer may also provide a description of any features of the project and/or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

82. This article introduces a more detailed list of information to be provided to enable screening for Schedule/Annex II projects that exceed any relevant thresholds in legislation. It describes the information to be provided by the developer including taking into account the available results of other relevant assessments.
83. The article clarifies that the developer may provide a description of any features and mitigation measures of the project envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment. This could negate the need to carry out an EIA and has the potential to reduce the number of EIAs.
84. This article is mandatory where a case by case screening process is in place. Examples can be seen in the draft regulations for Town and Country Planning in regulation 8 and for Electricity in regulation 8.
85. **Annex IIA** sets out the information to be provided by the developer when a screening decision has to be made for Schedule 2 /Annex II developments. This has been transposed into the draft regulations for Town and Country Planning in regulation 8 and for Electricity in regulation 8.

Determination

Article 4(5)

The competent authority shall make its determination, on the basis of the information provided by the developer...taking into account, where relevant, the results of preliminary verifications or assessments of the effects on the environment carried out pursuant to Union legislation other than this Directive. The determination shall be made available to the public and:

(a) where it is decided that an environmental impact assessment is required, state the main reasons for requiring such assessment with reference to the relevant criteria listed in Annex III; or

b) where it is decided that an environmental impact assessment is not required, state the main reasons for not requiring such assessment with reference to the relevant criteria listed in Annex III, and, where proposed by the developer, state any features of the project and/or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

86. The article largely clarifies the approach to screening as determined through European Court of Justice case-law. The main addition is that the screening opinion, positive and negative, must be based on information provided by the developer and that the competent authority must give reasons justifying their decision. The screening opinion must be made available to the public.
87. This Article is mandatory where a case by case screening process is in place. Examples can be seen in the draft regulations for Town and Country Planning in regulation 7(2) and for Electricity in regulation 7(2).

Maximum Timeframe for Determination

Article 4(6)

Member States shall ensure that the competent authority makes its determination as soon as possible and within a period of time not exceeding 90 days from the date on which the developer has submitted all the information required...

In exceptional cases, for instance relating to the nature, complexity, location or size of the project, the competent authority may extend that deadline to make its determination; in that event, the competent authority shall inform the developer in writing of the reasons justifying the extension and of the date when its determination is expected.

88. This article sets a maximum timeframe for the competent authority to provide a screening opinion. This decision, known as the determination, must be made as soon as possible and within a period not exceeding 90 days from the date on which the developer has submitted all the information required.

89. This article also allows discretion in the maximum time limit in exceptional circumstances relating to the nature, complexity, location or size of the project.
90. Where regimes currently have timescales in place for screening these are within the new maximum time period for determination:
- Energy - 21 days from the date that the planning authority is required to submit its views
 - Planning - 21 days
 - Forestry - 28 days
 - Agriculture - 35 days
 - Transport and Works projects - 42 days
 - Land Drainage currently has no screening provisions but will legislate for 35 days
 - Marine works as soon as reasonably practicable following a 28 day consultation period.
 - Trunk Roads has no legislative time limit for screening as Scottish Ministers are the developers for the purposes of road developments for which Scottish Ministers are the roads authority.
91. This article is mandatory where a case by case screening process is in place. Examples can be seen in Town and Country Planning regulations in 9 and 10 and for Electricity in regulation 9. For Trunk Roads the time limit referred to in the Directive will be considered for inclusion in the legislative amendments required to comply with article 4(5).

Question 6. Will you have to change your current practices to meet the new screening requirements?

Question 7. Are you content with the current timescales for providing a screening opinion?

Question 8. Do you consider that our approach to transposition of screening appropriately implements the requirements of the Directive?

Section 4. EIA Report

Information to be Provided in an EIA Report

Article 5(1)

Where an environmental impact assessment is required, the developer shall prepare and submit an environmental impact assessment report. The information to be provided by the developer shall include at least:

(a) a description of the project comprising information on the site, design, size and other relevant features of the project;

(b) a description of the likely significant effects of the project on the environment;

(c) a description of the features of the project and/or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;

d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;

(e) a non-technical summary of the information referred to in points (a) to (d); and

(f) any additional information ... relevant to the specific characteristics of a particular project or type of project and to the environmental features likely to be affected.

Where an opinion is issued... the environmental impact assessment report shall be based on that opinion, and include the information that may reasonably be required for reaching a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment.

The developer shall, with a view to avoiding duplication of assessments, take into account the available results of other relevant assessments under Union or national legislation, in preparing the environmental impact assessment report.

92. This article further clarifies the content of the EIA Report. It sets out what should be included in an EIA Report including mitigation measures, a non-technical report and reasonable alternatives and introduces a new provision requiring that where a scoping opinion is requested the EIA Report must be “based on” that opinion.
93. This Article is mandatory and must be transposed across all regimes. Examples can be seen in the draft regulations for Town and Country Planning at regulation 5(3) and for Electricity at regulation 5(3).
94. **Annex IV** sets out information in detail to be included in an EIA Report. This is mandatory and must be transposed across all eight sets of regulations. This has been transposed into the draft regulations for Town and Country Planning in Schedule 4 and for Electricity in Schedule 4.

Question 9. Will you have to change your current practice to prepare a reasoned conclusion?

Question 10. Do you consider that our approach to transposition of requirements concerning the content of the EIA report appropriately implements the Directive?

Section 5. Scoping

Scoping Opinion

Article 5(2)

Where requested by the developer, the competent authority, taking into account the information provided by the developer in particular on the specific characteristics of the project, including its location and technical capacity, and its likely impact on the environment, shall issue an opinion on the scope and level of detail of the information to be included by the developer in the environmental impact assessment report The competent authority shall consult the authorities... before it gives its opinion. Member States may also require the competent authorities to give an opinion as referred to in the first subparagraph, irrespective of whether the developer so requests.

95. Currently the developer can require a competent authority to issue a scoping opinion setting out the information to be included in the EIA Report. Where scoping is undertaken, the competent authority must consult the consultation bodies before issuing a scoping opinion.
96. The Directive also provides that Member States can choose to make it mandatory that competent authorities have to give a scoping opinion irrespective of whether the developer so requests.
97. Scoping has an important role to play in achieving the Scottish Government's aim of proportionate and effective EIA. In order to gain the full benefits of EIA, developers are encouraged to engage where appropriate with the competent authority and with the consultation bodies during the early stages of planning and design. In this way EIA can help to facilitate the early avoidance of adverse effects through changes to design strategies.
98. Such engagement can be iterative, and our experience is that there are a range of differing approaches and administrative best practice at the pre-application stage, not all of which will necessarily fit with a requirement for mandatory scoping envisaged by the Directive. Consequently, we do not propose to introduce any new procedural requirements on mandatory scoping.
99. This has been transposed into the draft regulations for Town and Country Planning in regulation 17 and for Electricity in regulation 12.

Question 11. Do you consider that our approach to transposition of scoping appropriately implements the requirements of the Directive?

Section 6. Assessment quality and expertise

Competent Experts

Article 5(3)

In order to ensure the completeness and quality of the environmental impact assessment report:

(a) the developer shall ensure that the environmental impact assessment report is prepared by competent experts;

(b) the competent authority shall ensure that it has, or has access as necessary to, sufficient expertise to examine the environmental impact assessment report; and

(c) where necessary, the competent authority shall seek from the developer supplementary information... which is directly relevant to reaching the reasoned conclusion on the significant effects of the project on the environment.

100. The Directive states that the developer shall ensure that the EIA Report is prepared by competent experts and the competent authority shall ensure that it has, or has access as necessary to, sufficient expertise to examine the report.
101. Given the diverse range of EIA topics and different areas of specialist expertise, we do not propose to define in legislation any particular route to or procedures for accreditation in this respect.
102. Part of the EIA process is to consult with statutory consultees such as Scottish Environment Protection Agency, Scottish Natural Heritage and Historic Environment Scotland and to take into account the consultees' comments.
103. This Article is mandatory and must be transposed across all regimes. Examples can be seen in the Town and Country Planning regulations at 5(5), 4(7) and 26(2) and for Electricity at regulation 4(7), 5(5) and 19(2).

Question 12. Do you consider that our approach to transposition of assessment quality and expertise appropriately implements the requirements of the Directive?

Section 7. Consultation and Publicity

Bodies to be Consulted

Article 6(1)

Member States shall take the measures necessary to ensure that the authorities likely to be concerned by the project by reason of their specific environmental responsibilities or local and regional competences are given an opportunity to express their opinion on the information supplied by the developer and on the request for development consent... To that end, Member States shall designate the authorities to be consulted, either in general terms or on a case-by-case basis. The information gathered ... shall be forwarded to those authorities. Detailed arrangements for consultation shall be laid down by the Member States.

104. This article allows Member States to state which bodies shall be consulted, including local and neighbouring authorities. The main statutory consultees in Scotland are the local planning authority, Scottish Natural Heritage, Historic Environment Scotland and the Scottish Environment Protection Agency.
105. This Article is mandatory and must be transposed across all regimes. Examples can be seen for Town and Country Planning in regulations 22(1)c and 2(1) (designated “consultation bodies”) and for Electricity in regulation 16 and 2 (designated “consultation bodies”).

Electronic Publication

Article 6(2)

In order to ensure the effective participation of the public concerned in the decision-making procedures, the public shall be informed electronically and by public notices or by other appropriate means, of the following matters early in the environmental decision-making procedures... and, at the latest, as soon as information can reasonably be provided.

106. The Directive states that competent authorities are now required to make EIA information electronically accessible to the public. Publishing the information electronically will be mandatory for the first time and should make the process more transparent.
107. This Article is mandatory and must be transposed across all eight regimes. This has been transposed into the draft regulations for Town and Country Planning in regulation 21 and for Electricity in regulation 14.

Informing the Public

Article 6(5)

The detailed arrangements for informing the public, for example by bill posting within a certain radius or publication in local newspapers, and for consulting the public concerned, for example by written submissions or by way of a public inquiry, shall be determined by the Member States. Member States shall take the necessary measures to ensure that the relevant information is electronically accessible to the public, through at least a central portal or easily accessible points of access, at the appropriate administrative level.

108. The Directive states that Member States should undertake necessary measures to ensure that relevant information is available through a 'central portal or easily accessible points of access'.
109. Currently most competent authorities already publish EIA Reports on their websites therefore there should be little change in practice for competent authorities in this respect. We are however exploring opportunities for digital initiatives such as mygov.scot to help to better signpost EIA information which is held at a local level.
110. This Article is mandatory and must be transposed across all regimes. Examples can be seen for Town and Country Planning in regulation 21 and for Electricity in regulation 14.

Timeframes for Consulting the Public

111. **Article 6(7)** sets a new minimum time frame for public consultations on the environmental impact assessment report, which should be no shorter than 30 days.
112. Existing timescales in place across regimes are:
- Energy Consents 28 days (minimum)
 - Forestry 28 days
 - Planning 28 days
 - Land Drainage 28 days
 - Agriculture 42 days
 - Transport and Works Projects 42 days (minimum)
 - Marine Works 42 days
 - Trunk Roads 42 days
113. This article is mandatory and must be transposed across all regimes. Some regimes will retain their current limits; those below the new minimum will have at least 30 days for consulting the public. Examples can be seen for Town and Country planning in regulation 21(5)(f) and for Electricity in regulation 14(2)(f).

Question 13. Do you consider that our approach to transposing consultation and publicity appropriately implements the requirements of Directive?

Question 14. Do you feel that the current arrangements for informing the public meet your needs?

Section 8. Monitoring

Information to be Included in a Decision

Article 8a(1)

The decision to grant development consent shall incorporate at least the following information:

(a) the reasoned conclusion ...;

(b) any environmental conditions attached to the decision, a description of any features of the project and/or measures envisaged to avoid, prevent or reduce and, if possible, offset significant adverse effects on the environment as well as, where appropriate, monitoring measures.

114. This Article sets out requirements for information to be included in a decision to grant development consent. The first part reflects the requirement in Article 1(2)(g)(v) that the competent authority's reasoned conclusion must be integrated into any decision.
115. The second requirement sets out that, in addition to any environmental conditions attached to the decision, competent authorities must also ensure that any mitigation measures and appropriate procedures regarding the monitoring of significant adverse effects on the environment resulting from the construction and operation of a project are identified and clearly set out in the consent.
116. We welcome views on whether and to what extent this may require changes to current practice; for example, where currently mitigation measures may be set out in a scheme of mitigation rather than in the decision itself.
117. This Article is mandatory and must be transposed across all regimes. Examples can be seen for Town and Country Planning in regulation 29(2)(f) and for Electricity in regulation 21(2)(f).

Information to be Included in a Refusal Decision

118. **Article 8a(2)** is based on European Court of Justice case law (C-87/02 and C-75/08) and requires that where development consent has been refused the competent authority must state the reasons for the refusal. This is already common practice across many EIA Regimes.
119. This Article is mandatory and must be transposed across all eight regimes. This has been transposed into the draft regulations for Town and Country Planning in regulation 29 and for Electricity in regulation 21.

Monitoring Requirements

Article 8a(4)

Member States shall ensure that the features of the project and/or measures envisaged to avoid, prevent or reduce and, if possible, offset significant adverse effects on the environment are implemented by the developer, and shall determine the procedures regarding the monitoring of significant adverse effects on the environment.

The type of parameters to be monitored and the duration of the monitoring shall be proportionate to the nature, location and size of the project and the significance of its effects on the environment.

Existing monitoring arrangements resulting from Union legislation other than this Directive and from national legislation may be used if appropriate, with a view to avoiding duplication of monitoring.

120. The Directive states that the development consent 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.
121. Monitoring should not be used as a general means of gathering environmental information and should not duplicate any monitoring required for other reasons.
122. This Article is mandatory and must be transposed across all regimes. Examples of this can be seen for Town and Country Planning in regulation 30 and for Electricity in regulation 22.

Question 15. Do you consider that the regulations meet the requirements of the Directive concerning the information to be included in the development consent?

Question 16. What administrative changes are likely to be required to implement new provisions on the content of decision notices?

Question 17. Do you consider that our approach to transposition of monitoring in the regulations implements the requirements of the Directive?

Question 18. Will you have to change your current practices to meet the new monitoring requirements?

Section 9. Decision

Up-to-date Reasoned Conclusion

Article 8a(6)

The competent authority shall be satisfied that the reasoned conclusion ..., or any of the decisions ..., is still up to date when taking a decision to grant development consent. To that effect, Member States may set time-frames for the validity of the reasoned conclusion...

123. This article concerns the validity of the EIA decisions stating that the reasoned conclusion is still 'up-to-date'. We propose that the reasoned conclusion should be considered up to date if the competent authority is satisfied, having regard to current knowledge and methods of assessment, that the reasoned conclusion addresses the likely significant effects of the development on the environment.
124. This Article is mandatory and must be transposed across all regimes. Examples of this can be seen for Town and Country Planning in regulation 29(4) and for Electricity in regulation 21(4).

Informing the Public of the Decision

Article 9(1)

When a decision to grant or refuse development consent has been taken, the competent authority or authorities shall promptly inform the public and the authorities ... thereof, in accordance with the national procedures, and shall ensure that the following information is available to the public and to the authorities ...

(a) the content of the decision and any conditions attached thereto ...

(b) the main reasons and considerations on which the decision is based, including information about the public participation process. This also includes the summary of the results of the consultations and the information gathered ... and how those results have been incorporated or otherwise addressed, in particular the comments received from the affected Member State

125. This article introduces additional information, including results of the consultations undertaken, which must be included in the decision. There is also a requirement that the competent authorities must promptly inform the public.
126. This article is mandatory and will be transposed across all regimes. Examples of this can be seen for Town and Country Planning in regulations 29 (1) & (2) and for Electricity in regulation 21(1) and (2).

Question 19. Do you consider that our approach to transposition for decisions appropriately implements the requirements of the Directive?

Section 10. Conflict of Interests

Objectivity

Article 9a

Member States shall ensure that the competent authority or authorities perform the duties arising from this Directive in an objective manner and do not find themselves in a situation giving rise to a conflict of interest. Where the competent authority is also the developer, Member States shall at least implement, within their organisation of administrative competences, an appropriate separation between conflicting functions when performing the duties arising from this Directive.

127. This new article is based on European Court of Justice case-law (C-474/10) and deals with a conflict of interest where an organisation is both the developer and the consultation body and/or competent authority. Where the competent authority is also the developer there must be an appropriate separation between functions.

128. This Article is mandatory and must be transposed across all regimes. Examples of this can be seen for Town and Country Planning in regulation 53 and for Electricity in regulation 37.

Question 20. Do you consider that our approach to conflict of interest appropriately implements the requirements of the Directive?

Section 11. Penalties

Rules on Penalties

Article 10a

Member States shall lay down rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive. The penalties thus provided for shall be effective, proportionate and dissuasive.

129. Ultimately it will be a matter for the courts to determine whether any breach of national EIA provisions has occurred, with the ultimate sanction that an existing permission or consent could be quashed. Currently, Marine Licensing and Agriculture EIA regimes also have penalties expressly for the provision of false information by the developer. We would welcome views on whether similar provision providing for penalties and sanctions for knowingly or recklessly providing false information should be applied across all eight EIA regimes.

Question 21. Do you agree with proposals to introduce penalties and sanctions for knowingly or recklessly providing false information should be applied across all eight EIA regimes?

Section 12. Transitional Arrangements

Transition from 2011/92/EU - Screening

130. **Article 3(1) (2014/52/EU)** provides transitional measures concerning certain applications for EIA screening of those projects which are listed in Annex II of the 2011 Directive. The article states that where an application for screening for such projects has been initiated prior to 16 May 2017 then that screening application will be subject to the current 2011 Directive.

131. This Article is mandatory and must be transposed across all regimes. Examples of this can be seen for Town and Country Planning in regulation 57 and for Electricity in regulation 38.

Transition from 2011/92/EU - Scoping

132. **Article 3(2) (2014/52/EU)** provides transitional measures whereby the current 2011 Directive will continue to apply, as unamended by the 2014 Directive, for applications in which the developer has, before 16th May 2017, submitted an environmental statement or where a scoping opinion has been sought.

133. This Article is mandatory and must be transposed across all regimes. Examples of this can be seen for Town and Country Planning in regulation 57 and for Electricity in regulation 38.

Question 22. Do you consider that our approach to transitional arrangements appropriately implements the requirements of the Directive?

Section 13. Other Policy Issues

134. The transposition of the Directive has also given the individual regimes the opportunity to examine current practices against the Directive.

Thresholds

Forestry Regime

135. Under Article 4.2 Member States have the power to set thresholds for Annex II projects.

136. Forestry Commission Scotland would like to seek your views on a proposed change to the threshold for afforestation projects in non-sensitive areas, which includes; planting new woods and forests, direct seeding or natural regeneration and planting Christmas trees or short rotation coppice. The Forestry Commission feel that the proposed change would help to reduce the number of screening decisions relating to appropriate woodland creation projects.

Question 23. Do you have any comments on the proposal by the forestry regime to increase the afforestation threshold for non-sensitive areas from 5 hectares to 20 Hectares?

Marine Works Regime

137. Marine Scotland would like to seek your views on the adoption, within the Marine Works EIA (Scotland) Regulations 2017, of the thresholds related to screening specified in Schedule 2 of the draft Town and Country Planning EIA (Scotland) Regulations 2017 where they are relevant to marine developments, for example marinas, and the construction of harbours and ports.

Question 24. Do you have any comments on the proposal by the marine regime to adopt the thresholds used by the planning regime where they are relevant to marine developments?

Multi-stage Consents

138. In cases where a consent procedure comprises more than one stage (a 'multi-stage consent'), the European Court of Justice has made clear that the effects which a project may have on the environment must be identified and assessed at the time of the procedure relating to the principal decision. (Cases C-201/02 and C-508/03 refer.) However, the courts have equally made clear that if those effects are not identified or identifiable at the time of the principle decision, assessment must be undertaken at the subsequent stage. Further information and background on multi-stage consents can be found in Planning Circular 3/2011².

139. We are taking the opportunity to generally bring up to date and to improve consistency of provisions on multi-stage consents across the relevant EIA regimes.

² Circular 3/2011: THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2011 <http://www.gov.scot/Resource/Doc/350238/0117228.pdf>

140. The Town and Country Planning regulations include draft new provision at regulation 4(6)(b) and updated provisions in Part 8. These extend to how planning authorities are to deal with applications for multi-stage consent required by a condition imposed in respect of a deemed planning permission granted by a direction under section 57 of the 1997 Act (development with government authorisation).

141. For multi-stage consent applications required under Electricity Act consents the relevant provisions are to be found in Part 8 and in regulation 4(5) and (6). Regulation 4(6) recognises that in the context of the determination of an application for Electricity Act consent it may be that subsequent approvals giving rise to the need for an application for the multi stage consent may be required in connection with a grant of deemed planning permission.

Question 25. Do you have any comments on the new provisions on multi stage consents?

Guidance

It would be helpful to have an understanding of the needs of users for guidance over and above the regulations themselves. We would also welcome any other comments you may have.

Question 26. Do you currently use EIA guidance? If so please provide further details.

Question 27. Is there any particular area or regime where you feel that guidance would be helpful?

PART THREE - ASSESSING IMPACT

Equalities

142. An Equality Impact Assessment (EQIA) involves assessing the impact of new or revised policies, practices or services against the requirements of the public sector equality duty. The duty requires all Public Service policy makers to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. It covers people in respect of all aspects of equality: age, disability, sex, race, religion or belief, sexual orientation, gender reassignment and pregnancy and maternity and children's wellbeing and rights.
143. Based on an initial assessment, we feel that there is unlikely to be any impact on any of the groups above.

Question 28. Do you think that the proposals presented might impact on people differently depending on characteristics such as age, disability, gender, race, religion or belief, sexual orientation, gender identity or children's rights and wellbeing?

Businesses

144. The BRIA considers if the changes will impact on business. All policy changes, whether European or domestic, which may have an impact upon business, charities or the voluntary sector must be accompanied by a Business and Regulatory Impact Assessment (BRIA).
145. Please refer to the partial BRIA which is provided as a supporting document to the consultation.

Question 29. What do you consider are the likely costs and benefits arising from the changes outlined in this consultation paper? (Please specify which of the Scottish EIA regimes your comments refer to.)

Question 30. Do you have any comments on the Draft Partial Business Regulatory Impact Assessment?

Strategic Environmental Assessment

146. We consider that the proposed changes to legislation required through the implementation of the Directive are likely to have no or minimal impacts on the environment. The proposals set out in the Consultation Paper have been pre-screened in accordance with the Environmental Assessment (Scotland) Act 2005.
147. We are however, inviting views on these proposed changes through this consultation process. As the changes to legislation are further defined, and in light of responses to the consultation, the potential for environmental effects will be reviewed in accordance with the 2005 Act.



ANNEX

Consultation on Environmental Impact Assessment amending Scottish Environmental Impact Assessment Regulations to Transpose Directive 2014/52/EU

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response.

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (anonymous)
 Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
 No

Questionnaire

Please provide your feedback on these proposals in the form of responses to the questions below.

Regimes

If you are answering the consultation questions in relation to a particular regime, please select the relevant box clearly highlight which regime you are referring to in the comments section.

- | | |
|--|---|
| <input type="checkbox"/> Agriculture | <input type="checkbox"/> Marine Works |
| <input type="checkbox"/> Energy | <input type="checkbox"/> Planning |
| <input type="checkbox"/> Forestry | <input type="checkbox"/> Transport and Works Projects |
| <input type="checkbox"/> Land Drainage | <input type="checkbox"/> Trunk Roads |

Section 1. Assessment Process

Q1. Do you agree with proposals to provide for a coordinated rather than joint procedure?

- Yes
- No
- Unsure

Comments

Q2. What would the regulatory impact be if legislation was introduced which required that no construction of any EIA development should take place until any operational permits or consents required under the Habitats and Birds Directives, Water Framework Directive, the Industrial Emissions Directive, the Waste Framework Directive or the SEVESO III Directive had been granted?
(Please provide details in the comments box below)

Comments

Q3. Do you have any further comments on the changes proposed to implement articles 1 and 2 of the EIA Directive?
(Please provide details in the comments box below)

Comments

Section 2: Information to be Assessed

Q4. Will you have to change your current practice to take account of the risk of major accidents?

- Yes
- No
- Unsure

Comments

Q5. Do you consider that our approach to transposition of information to be assessed appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

Comments

Section 3: Screening

Q6. Will you have to change your current practices to meet the new screening requirements?

- Yes
- No
- Unsure

Comments

Q7. Are you content with the current timescales for providing a screening opinion?

- Yes
- No
- Unsure

Comments

Q8. Do you consider that our approach to transposition of screening appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

Comments

Section 4: EIA Report

Q9. Will you have to change your current practice to prepare a reasoned conclusion?

- Yes
- No
- Unsure

Comments

Q10. Do you consider that our approach to transposition of requirements concerning the content of the EIA report appropriately implements the Directive?

- Yes
- No
- Unsure

Comments

Section 5: Scoping

Q11. Do you consider that our approach to transposition of scoping appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

Comments

Section 6: Assessment Quality and Expertise

Q12. Do you consider that our approach to transposition of assessment quality and expertise appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

Comments

Section 7. Consultation and Publicity

Q13. Do you consider that our approach to transposing consultation and publicity appropriately implements the requirements of Directive?

- Yes
- No
- Unsure

Comments

Q14. Do you feel that the current arrangements for informing the public meet your needs?

- Yes
- No
- Unsure

Comments

Section 8. Monitoring

Q15. Do you consider that the regulations meet the requirements of the Directive concerning the information to be included in the development consent?

- Yes
- No
- Unsure

Comments

Q16. What administrative changes are likely to be required to implement new provisions on the content of decision notices?

Comments

Q17. Do you consider that our approach to transposition of monitoring in the regulations implements the requirements of the Directive?

- Yes
- No
- Unsure

Comments

Q18. Will you have to change your current practices to meet the new monitoring requirements?

- Yes
- No
- Unsure

Comments

Section 9. Decision

Q19. Do you consider that our approach to transposition for decisions appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

Comments

Section 10. Conflict of Interests

Q20. Do you consider that our approach to conflict of interest appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

Comments

Section 11. Penalties

Q21. Do you agree with proposals to introduce penalties and sanctions for knowingly or recklessly providing false information should be applied across all eight EIA regimes?

- Yes
- No
- Unsure

Comments

Section 12. Transitional Arrangements

Q22. Do you consider that our approach to transitional arrangements appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

Comments

Section 13 Other Policy Issues

Q23. Do you have any comments on the proposal by the forestry regime to increase the afforestation threshold for non-sensitive areas from 5 hectares to 20 Hectares?

Comments

Q24. Do you have any comments on the proposal by the marine regime to adopt the thresholds used by the planning regime where they are relevant to marine developments?

Comments

Q25. Do you have any comments on the new provisions for multi stage consents?

Comments

Q26. Do you currently use EIA guidance? If so please provide further details.

- Yes
- No
- Unsure

Comments

Q27. Is there any particular area or regime where you feel that guidance would be helpful?

Comments

Part 3 – Assessing Impact

Q28. Do you think that the proposals presented might impact on people differently depending on characteristics such as age, disability, gender, race, religion or belief, sexual orientation, gender identity or children’s rights and wellbeing?

Comments

Q29. What do you consider are the likely costs and benefits arising from the changes outlined in this consultation paper?
(Please specify which of the Scottish EIA regimes your comments refer to.)

Comments

Q30. Do you have any comments on the Draft Partial Regulatory Impact Assessment?

Comments



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