

TRANSPOSITION NOTE

The provisions in Part II (environmental impact assessment) of the Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2010⁽¹⁾, as amended by the Flood Risk Management (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Regulations 2017 (“the Amended Regulations”) implement Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment⁽²⁾ (“the Directive”) in so far as it applies in relation to flood protection schemes.

Section 60 of the Flood Risk Management (Scotland) Act 2009 (“the Act”) makes provision in relation to flood protection schemes. A flood protection scheme is a scheme by a local authority for the management of flood risk. A proposed flood protection scheme must, among other things, contain a description of the operations the local authority proposes to carry out. Schedule 2 of the Act makes further provision about the making of flood protection schemes.

The Amended Regulations supplement the provisions in section 60 and schedule 2 of the Act to ensure that, where any such scheme contains a description of operations which constitute a project in Annex I or II of the Directive, the requirements of the Directive are met. The table below sets out how the Amended Regulations transpose the relevant Articles of the Directive in so far as it applies in relation to flood protection schemes in Scotland.

Article	Subject	Provision
Article 1	Definitions	Regulations 2 and 2A(1)
Article 2	General obligations	Regulations 3, 4(1) and 10B
Article 3	Environmental impact assessment (EIA)	Regulation 2A(2) to (5)
Article 4	Screening	Regulations 4(2) to (5) and 5
Article 5	EIA reports	Regulation 6
Article 6	Consultation	Regulations 7 and 8
Article 7	Effects in other Member States	Not relevant
Article 8	Taking account of relevant information	Regulations 7(6) and 9
Article 8a	Decisions and monitoring measures	Regulations 10 and 10A
Article 9	Notification of decisions	Regulation 10(5)
Article 9a	Avoidance of conflict of interest	Regulation 10C
Article 10	Confidentiality	Existing obligations unaffected
Article 11	Penalties	Regulations 10D and 10E
Annex I	Projects referred to in Article 4(1)	Regulation 4(2)
Annex II	Projects referred to in Article 4(1)	Regulation 4(3)
Annex IIA	Information referred to in Article IIA	Regulation 4(4)
Annex III	Selection Criteria referred to in Article 4(2)	Schedule 1
Annex IV	Information referred to in Article 5(1)	Schedule 2

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⁽¹⁾ As read with section 60 and schedule 2 of the Flood Risk Management (Scotland) Act 2009 (asp 6).

⁽²⁾ OJ L 26, 28.1.2012, p. 1, as amended by Directive 2014/52/EU of the European Parliament and of the Council (OJ L 124, 25.4.2014, p.1).