



**Transposition Table**

**Directive 2011/92/EU of the European Parliament and of the Council of 13th December 2011 on the assessment of the effects of certain public and private projects on the environment**

This transposition table is intended to provide a summary of how Directive 2011/92/EU of the European Parliament and of the Council of 13th December 2011 on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16th April 2014, is transposed, in relation to consents under section 36 and 37, and variations of consents under section 36C, of the Electricity Act 1989. Transposition is largely achieved through the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017 (the “2017 Regulations”).

<b>Provision of Directive 2011/92/EU</b>	<b>By what provision of 2017 Regulations transposed</b>	<b>Comment</b>
<b>Article 1</b>		
1(1)		Transposition not considered necessary.
1(2)(a) – definition of “project”	Reg. 3 – definition of “development”	
1(2)(b) – definition of “developer”		Transposition not considered necessary. “Developer” is defined where necessary in the 2017 Regulations.
1(2)(c) – “definition of development consent”		Transposition not considered necessary. Reg. 3 defines “section 36 consent”, “section 37 consent” and “section 36 variation” and where these terms are used in a relevant context, the 2017 Regulations provide that they are for “development” or “EIA development” as defined.
1(2)(d) – definition of “public”		Transposition not considered necessary.
1(2)(e) – definition of “public concerned”		Transposition not considered necessary.
1(2)(f) – definition of “competent authority or authorities”	Reg. 3 – definition of “relevant authority”	
1(2)(g) – definition of “environmental impact assessment”	Reg. 7(1)	
1(3)	Reg. 38	
<b>Article 2</b>		
2(1)	Reg. 6	Reg. 6 provides for the environmental



Department for  
Business, Energy  
& Industrial Strategy

		impact assessment (“EIA”) to be undertaken. Sections 36, 36C and 37 of the Electricity Act 1989 provide for the requirement that projects be subject to a requirement for “development consent”.
2(2)		Transposition not considered necessary.
2(3)	Reg. 8	
2(4)		Transposition not considered necessary.
2(5)		Transposition not considered necessary.
<b>Article 3</b>		
3(1)	Reg. 7(2)	Reg. 7(2) also includes the examples of the factors given in paragraph 1(4) of Annex IV.
3(2)	Reg. 7(3)(b)	
<b>Article 4</b>		
4(1)	Reg. 6	“EIA development” is defined in reg. 5 to include development of a description set out in Schedule 1, in respect of which an EIA must be undertaken. (Paragraphs 2, 20 and 24 of Annex I are included in Schedule 1.)
4(2)	Regs. 6 and 11	“EIA development” is defined in reg. 5 to include development of a description set out in Schedule 2 where an EIA report is provided in connection with the application, in respect of which an EIA must be undertaken. (Schedule 2 reflects paragraphs 3(a) and (b) and 13(a) of Annex II, so far as relevant to consents under sections 36 and 37 of the Electricity Act 1989.) Reg. 11 provides for screening decisions. Screening decisions are required in the case of development of a description set out in Schedule 2 where an EIA report is not provided in connection with the application and may be made in other cases. If it is decided that development is “EIA development”, reg. 6 requires there to be an EIA.
4(3)	Reg. 15(1)(a)	Reg. 15(1)(a) provides that the criteria set out in Schedule 3 (which reflect the criteria set out in Annex III to the Directive) should be taken into account in screening decisions. The Secretary of State took into account the criteria set out in Annex III when making the 2017



Department for  
Business, Energy  
& Industrial Strategy

		Regulations.
4(4)	Reg. 12	Reg. 12 also includes the information set out in Annex IIA of the Directive.
4(5)	Regs. 15 and 16	
4(6)	Regs. 13(4) and 14	
<b>Article 5</b>		
5(1)	Regs. 7(1)(a) and 17(1) to (4)	Reg. 7(1)(a) provides for the preparation and submission of the EIA report as part of the EIA.
5(2)	Reg. 18	
5(3)(a)	Reg. 17(5)	
5(3)(b)	Reg. 7(4)	
5(3)(c)	Reg. 25(1)	
5(4)	Regs. 20 and 35	
<b>Article 6</b>		
6(1)	Regs. 23 and 26(7)	Reg. 4 defines “consultation body”.
6(2)	Regs. 22 and 28	
6(3)	Regs. 22, 26, 27, 28, 29, 30 and 31	
6(4)	Regs. 22 and 26	Reg. 32 provides that the relevant authority must not determine the application until the time for making representations, etc. has passed.
6(5)	Regs. 28 and 29	Regs. 22 and 26 provide for publication in newspapers. Schedule 8 to the Electricity Act 1989 provides for public inquiries.
6(6)	Regs. 22, 23, 26 and 32	
6(7)	Reg. 22(5)(g)	
<b>Article 7</b>		
7(1)	Reg. 24(1)	
7(2)	Reg. 24(3)	
7(3)(a)		Transposition not considered necessary through the 2017 Regulations. This is an obligation on the receiving member State and is transposed through other Regulations: see, for example, regulation 59 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.
7(3)(b)	Reg. 24(4)	
7(4)	Reg. 24(5)	
7(5)		Transposition not considered necessary.
<b>Article 8</b>	Reg. 7(1)(c)	
<b>Article 8a</b>		
8a(1)	Reg. 33(2)(c)	Reg. 39(8) and (9) transpose Article 8a for applications that are exempted from



		an EIA under reg. 39.
8a(2)	Reg. 33(2)(d)	
8a(3)		Transposition not considered necessary.
8a(4)	Reg. 33(3)	The offences in section 36(6) and 37(4) of the Electricity Act 1989 provide a means by which any condition may be enforced. Where monitoring measures are included as a condition of deemed planning permission or of a marine licence granted in connection with a section 36 and 37 consent, there are enforcement mechanisms in Part 7 of the Town and Country Planning Act 1990 and Part 4 of the Marine and Coastal Access Act 2009 to ensure that any conditions may be enforced
8a(5)	Reg. 32	
8a(6)	Reg. 7(5)	
<b>Article 9</b>		
9(1)	Regs. 33(2)(b) and 34(1)(a)	Reg. 33(2)(b) requires the decision letter referred to in that regulation to contain the information referred to in Article 9(1). Reg. 34 requires the decision letter to be publicised. Reg. 39(8) and (9) transpose Article 9 for applications that are exempted from an EIA under reg. 39.
9(2)	Regs. 33(2)(b) and 34(1)(b)	As above
<b>Article 9a</b>	Reg. 37	
<b>Article 10</b>	Reg. 36	
<b>Article 10a</b>		Sections 36(6) and 37(4) of the Electricity Act 1989 contain offences for contravening the provisions of those sections relation to the requirement for consents for generating stations and overhead electric lines.
<b>Article 11</b>		
11(1)		Transposition not considered necessary through the 2017 Regulations. Decisions to grant or refuse consents under the Electricity Act 1989 are subject to judicial review.
11(2)		As above.
11(3)		As above.
11(4)		As above.
11(5)	Regs. 33(2)(e) and 34	



Department for  
Business, Energy  
& Industrial Strategy

<b>Articles 12, 13, 14, 15 and 16</b>		Transposition not considered necessary.
<b>Annex I</b>	Schedule 1	Paragraphs 2, 20 and 24 of Annex I are included in Schedule 1
<b>Annex II</b>	Schedule 2	Schedule 2 reflects paragraphs 3(a) and (b) and 13(a) of Annex II so far as relevant to consents under sections 36 and 37 of the Electricity Act 1989
<b>Annex IIA</b>	Reg. 12	
<b>Annex III</b>	Schedule 3	
<b>Annex IV</b>	Schedule 4	The examples of the factors given in paragraph 1(4) of Annex IV are included in reg. 7(2).
<b>Provision of Directive 2014/52/EU</b>	<b>By what provision of 2017 Regulations transposed</b>	<b>Comment</b>
<b>Article 1</b>		Transposition not considered necessary as the provision amends Directive 2011/92/EU
<b>Article 2</b>		
2(1)		The explanatory note contains a reference to Directive 2014/52/EU
2(2)		Transposition not considered necessary.
<b>Article 3</b>		
3(1)	Reg. 42(3)	
3(2)	Reg. 42(1) and (5)	
<b>Articles 4 and 5</b>		Transposition not considered necessary.
<b>Annex</b>		Transposition not considered necessary as the Annex amends Directive 2011/92/EU