

## The Water Resources (Environmental Impact Assessment) (England and Wales) (Amendment) Regulations 2017

### Transposition note for Directive 2014/52/EU amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment

1. This transposition note sets out how Directive 2014/52/EU (“the 2014 Directive”) amending Directive 2011/92/EU on the assessment of certain public and private projects on the environment (“the EIA Directive”) is transposed in respect of water management projects for agriculture, including irrigation projects, in England and Wales.
2. The table shows how the main elements of the 2014 Directive are transposed in the Water Resources (Environmental Impact Assessment) (England and Wales) Regulations 2003 (“the 2003 Regulations”) as amended by the Water Resources (Environmental Impact Assessment) (England and Wales) (Amendment) Regulations 2017 (“the 2017 Regulations”).
3. References in the table to Article numbers are to the EIA Directive as amended by the 2014 Directive.
4. References in the table to regulations are to the 2003 Regulations as amended by the 2017 Regulations.

Article	Objective	Implementation
Article 1(3)	Exemption for projects or parts of projects having defence as their sole purpose or response to civil emergencies.	Regulation 3A
Article 2(4)	Exemption in exceptional circumstances.	Regulation 3B
Article 2(3)	Joint or co-ordinated procedures to apply where projects are assessed under the EIA Directive and Directive 92/43 EEC on habitats or Directive 2009/147/EC on wild birds.	Regulation 3C
Article 3	Statement of factors which must be considered etc. during environmental impact assessment.	Regulation 7A(2)
Article 4(4) first and second sentence	Developer provides information specified in Annex IIA for an initial (“screening”) decision of whether project likely to have significant effects on environment.	Regulation 4(2) and 2A(2)
Article 4(4) third sentence	Developer must take other assessments under Union legislation into account in preparing information for screening decision.	Regulation 4(2A)(b)
Article 4(4)	Developer may also provide a description of features in information for screening	Regulation 4(2)(d)

fourth sentence	decision.	
Article 4(5) first sentence	Screening decision of competent authority.	Regulation 4(4)(b)
Article 4(5) second sentence	Screening decision must be made public.	Regulation 4(9)(a) and (b)
Article 4(6)	Screening decision must be made within 90 days.	Regulation 4(5)(b) and (5A)
Article 5(1) first sentence	Developer must prepare and submit an environmental impact assessment report.	Regulations 5 and 6(1)
Article 5(1) second sentence	Environmental impact assessment must include certain information.	Regulation 6(1)
Article 5(1) third sentence	Environmental impact assessment report must be based on opinion (“scoping opinion”) by authority about contents of report where requested.	Regulation 6(1)
Article 5(3)(a)	Developer must ensure environmental impact assessment report prepared by competent experts.	Regulation 6(1)
Article 5(3)(b)	Authority must ensure it has sufficient expertise to consider environmental impact assessment report.	Regulation 7A(1) – introductory words
Article 5(3)(c)	Facility for supplementary information to be provided which is relevant to authority’s conclusion about environmental impact.	Regulation 6(3)
Article 6(1)	Designation of consultation bodies – new reference to local or regional competences	Regulation 2 (amended definition of “consultation bodies”) Regulation 7
Article 6(2) and (5)	Authorities with specific environmental responsibilities or local or regional competences to be consulted.	Regulation 7
Article 6(6)/(7)	Informing the public electronically of request for consent and of availability of environmental impact assessment report etc.	Regulation 7
Article 8a(1)	Timeframe for consulting public on environmental impact assessment report must not be less than 30 days.	Regulation 8(2)
Article 8a(2)	Decision to grant consent must incorporate at least the reasoned conclusion, and environmental conditions and, where appropriate, monitoring measures.	Regulation 8(3A)(b)
Article 8a(4)	Decision to refuse consent must state reasons.	Regulation 10(a)
Article 8a(5)	Member state must ensure environmental conditions are implemented by developer and determine procedures regarding monitoring significant adverse effects.	Regulation 11(1)(b)
Article 8a(6)	Decision whether to grant consent must be made within reasonable time.	Regulation 8(4) and 11(1)(b)
Article 9(1)	Informing the public – new reference to consultation bodies.	Regulation 8(3)(a)
Article 9a	Authority must be objective and not in a situation which gives rise to a conflict of interests.	Common law: Magill v Porter [2002]

		2 AC 357
Article 10a	Member State must set out penalties for infringements.	Regulation 9(4) and 9A
Annex II.A	Information to be provided by developer on projects listed in Annex II for screening decision	Regulation 4(2)
Annex III	Criteria to determine whether projects listed in Annex II should be subject to environmental impact assessment	Schedule 1
Annex IV	Information for the environmental impact assessment report	Schedule 2