

## The Nuclear Reactors (Environmental Impact Assessment for Decommissioning) (Amendment) Regulations 2018

### Transition 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 nuclear reactor decommissioning projects in Great Britain.
2. The table shows how the main elements of the 2014 Directive are transposed in the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999 (“the 1999 regulations”) as amended by The Nuclear Reactors (Environmental Impact Assessment for Decommissioning) (Amendment) Regulations 2018 (“the 2018 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 1999 Regulations as amended by the 2018 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 3(3) to (5)
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 4A
Article 2(4)	Exemption in exceptional circumstances.	Regulation 3(6) to (9)
Article 3	Statement of factors which must be considered etc. as part of the environmental impact assessment.	Regulation 10B(3)
Article 4(4) first and second sentence	Where a Member State requires a determination for whether Annex II projects require an environmental impact assessment (screening), the developer must provide information specified in Annex IIA on the project and its likely significant effects on the environment.	Regulation 13(3) and Schedule 3
Article 4(4) third sentence	Developer must take other assessments under Union legislation into account in preparing information for screening decision.	Regulation 13(3A)

Article 4(4) fourth sentence	Developer may also provide a description of features envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.	Regulation 13(3B)
Article 4(5) first sentence	Screening decision of competent authority must be based on the information provided by the developer and to take into account, where relevant, the results of other assessments under Union legislation.	Regulation 13(2)
Article 4(5) second sentence	Screening decision and reasoning must be made public.	Regulation 13(5) and (6)
Article 4(6)	Screening decision must be made within 90 days.	Regulation 13(7) to (9)
Article 5(1) first sentence	Developer must prepare and submit an environmental impact assessment report.	Regulation 5(1)
Article 5(1) second sentence	Environmental impact assessment must include certain information.	Regulation 5(1) and Schedule 1
Article 5(1) third sentence	The content of an environmental impact assessment report must be based on opinion ("scoping opinion") where issued. where one is issued by the authority.	Regulation 5(2)
Article 5(2) first sentence	Facility for scoping opinions by authority which must take into account information provided by developer.	Regulation 6(1) and (3A)
Article 5(3)(a)	Developer must ensure environmental impact assessment reports are prepared by competent experts.	Regulation 5(2)(a)
Article 5(3)(b)	Authority must ensure it has sufficient expertise to consider environmental impact assessment report.	Regulation 10B(2)
Article 5(3)(c)	Facility for supplementary information to be provided which is relevant to authority's conclusion about environmental impact.	Regulation 10
Article 6(1)	Authorities with specific environmental responsibilities or local or regional competences to be consulted.	Regulation 2 (definition of "consultation bodies") read together with regulations 6(3) and 8(1)(a) and (2)(a)
Article 6(2) and (5)	Informing the public electronically of request for consent and of availability of environmental impact assessment report etc.	Regulations 9A and 10A
Article 6(6)/(7)	Timeframe for consulting public on environmental impact assessment report must not be less than 30 days.	Regulation 9(4) and 9A(2)
Article 8a(1)	Decision to grant consent must incorporate at least the reasoned conclusion, and environmental conditions and, where appropriate, monitoring measures.	Regulation 10C(1) and (2)
Article 8a(2)	Decision to refuse consent must state reasons.	Regulation 11(2)(b)

Article 8a(4)	Member state must ensure environmental conditions are implemented by developer and determine procedures regarding monitoring significant adverse effects.	Regulation 10C(1) and (2)
Article 8a(5)	Decision whether to grant consent must be made within reasonable time.	Regulation 10C(5)
Article 8a(6)	Authority's conclusion about environmental impact must be up to date when deciding whether to grant consent.	Regulation 10C(4)
Article 9(1)	Informing the public – new reference to consultation bodies.	Regulation 11(1) and (2)
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 16
Annex IIA	Information to be provided by developer on projects listed in Annex II for screening decision.	Regulation 13(3) and Schedule 3
Annex III	Criteria to determine whether projects listed in Annex II should be subject to environmental impact assessment.	Regulation 13(2)(a) and Schedule 2
Annex IV	Information for the environmental impact assessment report.	Regulations 5(1)(f) and 10(1) and Schedule 1