STATUTORY RULES OF NORTHERN IRELAND

# 2017 No. 87

# ROADS

## The Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 2017

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| *Made - - - -* | *16th May 2017* |
| *Coming into operation* | *16th May 2017* |

The Department for Infrastructure is a Northern Ireland department designated for the purposes of section 2(2) of the European Communities Act 1972(**1**) in relation to the environment.

The Department for Infrastructure makes the following Regulation in exercise of the powers conferred by section 2 (2) of the European Communities Act 1972.

### Citation, commencement and interpretation

**1.**—(1) These Regulations may be cited as the Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 and come into operation on 16th May 2017.

(2) The Interpretation Act (Northern Ireland) 1954(**2**) applies to these Regulations as it applies to an Act of the Assembly.

### Amendment of the Roads (Northern Ireland) Order 1993

**2.** The Roads (Northern Ireland) Order 1993(**3**) is amended in accordance with regulations 3 to 7.

### Amendments of Article 67 (environmental impact assessment)

**3.**—(1) Article 67 is amended in accordance with paragraphs (2) to (5).

(2) In paragraph (1)—

(a) for the definition of "the Directive" substitute—

> ""the Directive" means Directive 2011/92/EU of the European Parliament and of the Council, as amended by Directive 2014/52/EU of the European Parliament and of the Council;";

(b) after the definition of "EEA State" insert the following definitions—

(**1**) 1972 c. 68
(**2**) 1954 c. 33 (N.I.)
(**3**) S.I. 1993/3160 (N.I. 15); relevant amending Orders are S.R. 1999 NO.89 and S.R 2007 NO 346

""EIA report" means an environmental impact assessment report prepared in accordance with paragraphs (5) and (6);

"environmental impact assessment" means a process consisting of—

(a) the preparation of an EIA report by the Department;

(b) the carrying out of any consultation, publication and notification required by Article 67A and, where relevant, Article 67B;

(c) the examination by the Department of the environmental information;

(d) the reasoned conclusion by the Department on the significant effects of the project on the environment, taking into account the results of the examination referred to in paragraph (c) and, where appropriate, its own supplementary examination; and

(e) the integration of that reasoned conclusion into the decision as to whether to proceed with the project;

"environmental information" means—

(a) the EIA report;

(b) any supplementary information obtained under paragraph (7);

(c) any relevant information, including representations, received through the consultation required by Article 67A and, where relevant, Article 67B; and

(d) any representations duly made by any other person about the environmental effects of the project;

"Habitats Regulation Assessment" means an assessment under regulation 43 of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995;

"improvement", in relation to a road, has the meaning given by Article 43;";

(c) after the definition of "member of the public" insert the following definitions—

""project" means a project for the construction of a new road or for the carrying out of works for the improvement of a road;

"public concerned" has the same meaning as it has in Article 1 (2) of the Directive;"

(d) after the definition of "relevant project" insert the following definition—

""Union legislation" means any enactment in the domestic law of Northern Ireland giving effect to an EU obligation.".

(3) In paragraph (2)—

(a) in the definition of "sensitive area",

(i) in sub-paragraph (a) for "Article 24 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985" substitute "Article 28 of the Environment (Northern Ireland) Order 2002";

(ii) for sub-paragraph (d) substitute—

"(d) a property appearing on the World Heritage List kept under Article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage,";

(iii) at the end of sub-paragraph (f) for the full stop substitute a semi-colon;

(iv) after sub-paragraph (f) add —

"(g) a marine conservation zone, that is to say, an area of sea so designated under section 13 of the Marine Act (Northern Ireland) 2013.";

(4) For paragraph (4) substitute—

"(4) The Department may direct that this Part does not apply in relation to a particular proposed project specified in the direction either—

(a) in accordance with Article 2(4) of the Directive; or

(b) if the project comprises or forms part of a project having the response to civil emergencies as its sole purpose, and in the opinion of the Department compliance with this Part would have an adverse effect on that purpose.

(4A) Where the Department gives a direction under paragraph (4) (a), it must—

(a) make available to the public by general and local advertisement the information considered in making the direction and the reasons for making the direction;

(b) consider whether another form of assessment would be appropriate;

(c) make available to the public any information obtained under that other form of assessment;

(d) inform the Commission, prior to granting consent, of the reasons justifying the exemption granted, and provide it with the information referred to in (4A)(a) and (c).

(4B) Subject to paragraph (4), where the Department determines that a project—

(a) falls within Annex I; or

(b) is a relevant project falling within Annex II and determines that the project should be subject to an environmental impact assessment,

it must prepare an EIA report.

(4C) Where the Department has to make a determination under paragraph (4B) (b) as to whether a relevant project falling within Annex II should be subject to an environmental impact assessment, it must take into account in making that determination—

(a) the information compiled by the Department on the characteristics of the project and its likely significant effects on the environment, including the information specified in Annex IIA;

(b) such of the selection criteria set out in Annex III as are relevant to the project; and

(c) where relevant, the available results of other environmental assessments of the effects of the project carried out pursuant to Union legislation other than legislation implementing the requirements of the Directive.

(4D) Where the Department makes a determination under paragraph (3) or (4B), it must make that determination available to the public in accordance with paragraph (4E), and the determination must—

(a) state the main reasons for the determination, with reference to the relevant criteria set out in Annex III; and

(b) where the determination is to the effect that the project should not be subject to an environmental impact assessment, state any features of the project and measures envisaged to avoid or prevent what otherwise might have been significant adverse effects on the environment.

(4E) The Department must make available to the public the determination, including any accompanying statement of reasons, on a website used by the Department for the purpose of giving information to the public about projects.".

(5) For paragraphs (5) and (6) substitute—

"(5) An EIA report prepared by the Department must 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 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 Department 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 sub-paragraphs (a) to (d); and

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

(6) The EIA report referred to in paragraph (5) must—

(a) be prepared by competent experts in order to ensure the completeness and quality of the EIA report;

(b) contain a statement by the Department setting out how sub-paragraph (6)(a) has been complied with;

(c) include the information reasonably 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; and

(d) with a view to avoiding duplication of assessments, be prepared taking into account the available results of other relevant assessments under Union legislation or other legislation applicable in Northern Ireland.

(7) In order to ensure the completeness and quality of the EIA report, the Department must where necessary obtain supplementary information about any matter referred to in paragraph (5) which is directly relevant to reaching a reasoned conclusion on the significant effects of the project on the environment.

(8) Where, in relation to a proposed project, an environmental impact assessment is to be carried out under this Part, the assessment must identify, describe and assess in an appropriate manner, in light of each individual case, the direct and indirect significant effects of the 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; and

(e) the interaction between the factors referred to in sub-paragraphs (a) to (d).

(9) The significant effects to be identified, described and assessed under paragraph (8) include—

(a) the operational effects of the project, where the project will have operational effects; and

(b) the expected effects deriving from the vulnerability of the project to risks of major accidents or disasters, so far as relevant to the project.

(10) The Department must ensure that it has, or has access as necessary to, sufficient expertise to examine the EIA report.

(11) Where, in relation to a project, there is, in addition to a requirement for an environmental impact assessment to be carried out under this Part, a requirement to carry out a Habitats Regulation Assessment, the Department must, where appropriate, ensure that the Habitats Regulation Assessment and the environmental impact assessment are co-ordinated.".

**Amendment of Article 67A (procedure)**

**4.**—(1) Article 67A is amended in accordance with paragraphs (2) to (13).

(2) Omit paragraph (1).

(3) For paragraph (3) substitute—

"(3) Where, in relation to a proposed project, the Department has prepared an EIA report, it shall publish, in accordance with paragraph (9), notice of the report so as to ensure that the public concerned and the consultation bodies are given a reasonable opportunity to express their opinion before the Department decides whether to proceed with the project.".

(4) In paragraph (3A)—

(a) in sub-paragraph (a) for "implementing" substitute "proceeding with";

(b) in sub-paragraphs (d), (e), (f), and (g) for "environmental statement", wherever it occurs, substitute "EIA report";

(c) for sub-paragraph (h) substitute—

"(h) that a copy of the EIA report and a non-technical summary of the report may be inspected on a website used by the Department for the purpose of giving information to the public about the project during the period specified under sub-paragraph (i), and the address of the website;".

(d) after sub-paragraph (h) insert—

"(ha) an indication of the availability of other information gathered in the development of the EIA report;".

(e) in sub-paragraph (i), for "environmental statement" substitute "EIA report".

(5) In paragraph (3B)—

(a) in sub-paragraph (a)—

(i) for "environmental statement" substitute "EIA report and supplementary information, as referred to in Article 67(7), used in reaching the decision";

(ii) for "specified in" substitute "specified under";

(b) in sub-paragraph (b)—

(i) for "environmental statement" substitute "EIA report";

(ii) for "specified in" substitute "specified under";

(c) for sub-paragraph (c) substitute—

"(c) a copy of the EIA report and a non-technical summary of the report are available for inspection by members of the public on the website referred to in paragraph (3A)(h).".

(6) In paragraph (3C) for "environmental statement" substitute "EIA report".

(7) In paragraph (4) for "environmental statement" substitute "EIA report".

(8) In paragraph (5) for "statement" substitute "EIA report".