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STATUTORY INSTRUMENTS

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**2019 No. 279**

**EXITING THE EUROPEAN  
UNION, NORTHERN IRELAND  
AGRICULTURE, NORTHERN IRELAND  
ENVIRONMENTAL PROTECTION,  
NORTHERN IRELAND  
FORESTRY, NORTHERN IRELAND  
WATER RESOURCES, NORTHERN IRELAND**

The Environmental Impact Assessment (Amendment)  
(Northern Ireland) (EU Exit) (No. 2) Regulations 2019

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|---|---------------------------|
| <i>Sift requirements satisfied</i>                          | <i>8th February 2019</i>  |
| <i>Made - - - -</i>   | <i>15th February 2019</i> |
| <i>Laid before Parliament</i>                               | <i>19th February 2019</i> |
| <i>Coming into force in accordance with regulation 1(1)</i> |                           |

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018<sup>(1)</sup>.

The requirements of paragraph 3(2) of Schedule 7 to the European Union (Withdrawal) Act 2018 (relating to the appropriate parliamentary procedure for these Regulations) have been satisfied.

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Environmental Impact Assessment (Amendment) (Northern Ireland) (EU Exit) (No. 2) Regulations 2019 and come into force on exit day.

(2) These regulations extend to Northern Ireland only.

### **Amendments to the Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004**

2.—(1) The Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004<sup>(2)</sup> are amended as follows.

- (2) In regulation 5(3), after “pursuant to” insert “any laws that implemented”.
- (3) In regulation 7, for “the specific provisions of Community legislation” substitute “retained EU law”.
- (4) In regulation 11(4), for “Community legislation” substitute “retained EU law”.
- (5) In regulation 13(1) and (3)(a), for “another” substitute “a”.
- (6) In regulation 14—
  - (a) in the heading omit “other”;
  - (b) in paragraph (1) omit “in that behalf” to “Directive”;
  - (c) in paragraph (4)(b) and (d), for “under Article 7.1 of the Environmental Assessment of Plans and Programmes Directive” substitute “by the Member State”.
- (7) In Schedule 1, in paragraph 1(e), for “Community legislation” substitute “retained EU law”.
- (8) In Schedule 2—
  - (a) in paragraph 4, for the words from “areas designated” to the end substitute “a European Site (within the meaning of regulation 9 of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995)”<sup>(3)</sup>;
  - (b) in paragraph 5, for “Community or Member State” substitute “or national”.

### **Amendments to the Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006**

3.—(1) The Environmental Assessment (Forestry) Regulations (Northern Ireland) 2006<sup>(4)</sup> are amended as follows.

- (2) In regulation 2(1)—
  - (a) at the appropriate place insert—
    - ““the Habitats Regulations” means the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland 1995);”;
    - ““Natura 2000” means Natura 2000 as defined in regulation 2(2) of the Habitat Regulations;”;
  - (b) in the definition of “Union Legislation”, for “an EU obligation” substitute “retained EU law”.
- (3) In regulation 12(1)(g), for “another” substitute “an”.
- (4) In regulation 15, in the heading and in paragraphs (1) and (7), for “another”, in each place it occurs, substitute “an”.
- (5) In regulation 30(2)(f), for “another” substitute “an”.
- (6) In regulation 35—
  - (a) in the heading and in paragraph (1), for “another”, in each place it occurs, substitute “an”;
  - (b) in paragraph (4)—

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(2) S.R. 2004 No. 280.

(3) S.R. 1995 No. 380, as amended by the Marine Act (Northern Ireland) 2013 (c. 10) and S.R.2003 No. 46, 2004 No. 435, 2007 No. 345, 2009 No. 8, 2011 No. 216, 2012 No. 368, 2015 No 182.

(4) S.R. 2006 No.518, amended by S.R. 2017 No. 86.

- (i) in the words before sub-paragraph (a) omit “in accordance with Article 7.4 of the Directive”;
  - (ii) in sub-paragraph (b) omit “other”.
- (7) In Schedule 1, in Part 1—
- (a) in paragraph 6, for “established at Union or Member State level” substitute “in retained EU law or under other national legislation”;
  - (b) in paragraph 9, for the second sentence substitute—  
“Relevant information available and obtained through risk assessments pursuant to retained EU law or UK environmental assessments may be used for this purpose provided that the requirements of any law that implements the Directive are met.”
- (8) In Schedule 2, in paragraph 1(g), for “Conservation (Natural Habitats etc.) Regulations (Northern Ireland 1995)” substitute “Habitats Regulations.”
- (9) In Schedule 3, in paragraph 2(c)(v), omit the words from “designated” to the end.
- (10) In Schedule 4, in sub-paragraph (b), for the words after “attention to” to the end substitute—  
“—
- (i) species of naturally occurring birds in the wild state as specified in [Directive 2009/147/EC](#) on the conservation of wild birds;
  - (ii) natural habitat types in Annex 1 to Directive 92/43;
  - (iii) animal and plant species in Annex 2 or 4 to Directive 92/43.”

#### **Amendments to the Environmental Impact Assessment (Agriculture) Regulations (Northern Ireland) 2007**

4.—(1) The Environmental Impact Assessment (Agriculture) Regulations (Northern Ireland) 2007(5) are amended as follows.

- (2) In regulation 2(1)—
- (a) for the definition of “EU environmental assessment” substitute—  
““EU environmental assessment” means an assessment of the effect of anything on the environment carried out under retained EU law other than any law of any part of the United Kingdom that implemented [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;”;
  - (b) after the definition of “the Habitat Regulations” insert—  
““Natura 2000” means Natura 2000 as defined in regulation 2(2) of the Habitats Regulations;”;
  - (c) at the end insert—  
““Union legislation” means any enactment in the domestic legislation of Northern Ireland giving effect to retained EU law”;
  - (d) omit the definitions of “the Birds Directive” and “the EIA Directive”;
  - (e) in paragraph (2)—
    - (i) omit “EIA Directive”;
    - (ii) for “or the Habitats Directive” substitute “Habitats Regulations”;

(iii) for “relevant Directive” substitute “Habitats Regulations”.

(3) In regulation 3(2)(b), for “in accordance with Article 2(4) of the EIA Directive” substitute “where the application of these Regulations would adversely affect the purpose of the project, but the objectives of these Regulations are still met”.

(4) In regulation 9A, in paragraph (3)(b), for the words after “and in particular” to the end substitute—

“—

- (i) species of naturally occurring birds in the wild state as specified in Directive 2009/14/EC on the conservation of wild birds;
- (ii) natural habitat types in Annex 1 to the Habitats Directive;
- (iii) animal and plant species in Annex 2 or 4 of the Habitats Directive.”.

(5) In regulation 14—

- (a) in the heading and in paragraph (1), for “another” substitute “an”;
- (b) in paragraph (5)(a), for “referred to in Article 6(1) of the EIA Directive” substitute “which the EEA State designated to be consulted about the project”;
- (c) in paragraph (6) omit “In accordance with Article 7(4) of the EIA Directive,”.

(6) In regulation 15—

- (a) in the heading for “another” substitute “an”;
- (b) in paragraph (1), for the words from “If the Department” to “the Department shall” substitute—

“(1) If the Department receives information from an EEA State in relation to a significant project in that EEA State, the Department shall”;

- (c) in paragraph (2) omit “In accordance with Article 7(4) of the EIA Directive,”;
- (d) in paragraph (3)—
  - (i) for “another” substitute “an”;
  - (ii) omit “in accordance with Article 9(2) of the EIA Directive”.

(7) In regulation 16(4)(c), for “another” substitute “an”.

(8) In regulation 17—

- (a) in paragraph (5), for “European Commission” substitute “Department”;
- (b) in paragraph (6), omit “(within the meaning of regulation 2(1) of the Habitats Regulations)”.

(9) In Schedule 2, in paragraph 2(c)(v), omit the words from “designated” to the end.

(10) In Schedule 3—

- (a) in paragraph 5, for “at Union or Member State Level” substitute “in Union legislation or under other national legislation”;
- (b) in paragraph 8, for the second sentence substitute—

“Relevant information available and obtained through risk assessments pursuant to Union legislation or UK environmental assessments may be used for this purpose provided that the requirements of any law that implemented [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 are met.”.

## **Amendments to the Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2017**

5.—(1) The Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2017(6) are amended as follows.

(2) In regulation 2(1), in the appropriate place insert—

““the Habitats Directive” means Council [Directive 92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora, as last amended Council [Directive 2013/17/EU](#);

“the Habitats Regulations” means the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995;

“Natura 2000” has the meaning given in regulation 2(2) of the Habitats Regulations;

“Union legislation” means any enactment in the domestic legislation of Northern Ireland giving effect to retained EU law.”.

(3) In regulation 4(1)(b), for the words after “particular attention to” to the end substitute—

“—

(i) species of naturally occurring birds in the wild state as specified in [Directive 2009/147/EC](#) on the conservation of wild birds;

(ii) natural habitat types in Annex 1 to the Habitats Directive;

(iii) animal and plant species in Annex 2 or 4 to the Habitats Directive.”.

(4) In regulation 5(1)(a), for “the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995” substitute “the Habitats Regulations”.

(5) In regulation 6—

(a) in paragraph (3), for “an EU obligation” substitute “retained EU law”;

(b) in paragraph (5)(a)(ii), for “any EU obligation” substitute “retained EU law”.

(6) In regulation 11—

(a) in the heading and in paragraphs (1)(a) and (b) and (2), for “another”, in each place it occurs, substitute “an”;

(b) in paragraph (4), for “referred to in Article 6.1 of the Directive” substitute “which the EEA State designated to be consulted about the project”;

(c) in paragraph (5) omit “in accordance with Article 7.4 of the Directive”.

(7) In regulation 12—

(a) in the heading, for “another” substitute “an”;

(b) in paragraph (1)—

(i) in sub-paragraph (a)—

(aa) for “another” substitute “an”;

(bb) omit “pursuant to Article 7.2 of the Directive”;

(cc) omit “, in accordance with Article 7.4 of the Directive”;

(ii) in sub-paragraph (b), for the words from “to the competent” to the end substitute “representations to the competent authority in that EEA State which the State designated as responsible for performing the duties arising from the Directive”;

(c) in paragraph (2)(c) omit “in order to comply with Article 9.2 of the Directive”.

- (8) In Schedule 2—
- (a) in paragraph 2(c)(v) omit the words from “designated” to the end;
  - (b) in paragraph 2(c)(vi), after “Union legislation” insert “prior to exit day or retained EU law”.
- (9) In Schedule 3—
- (a) in paragraph 5(2), for “at Union or Member State level” substitute “in retained EU law or under other national legislation”;
  - (b) in paragraph 8, for the second sentence substitute—  
“Relevant information available and obtained through risk assessments pursuant to retained EU law or UK environmental assessments may be used for this purpose provided that the requirements of any law that implemented the Directive are met.”.

**Revocation of the Environmental Impact Assessment (Amendment) (Northern Ireland) (EU Exit) Regulations 2019**

6. The Environmental Impact Assessment (Amendment) (Northern Ireland) (EU Exit) Regulations 2019(7) are revoked.

*Thérèse Coffey*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

15th February 2019

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers conferred by the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular section 8(2)(a), (b), (d) and (g)) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to subordinate legislation in the field of Environmental Impact Assessments in relation to Northern Ireland. It revokes the Environmental Impact Assessment (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019 No. 123) because of a technical error.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.