

# Environmental Impact Assessment Directive (Agriculture)

Comments by  
Northern Ireland Environment Link

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Northern Ireland Environment Link (NIEL) is the networking and forum body for non-statutory organisations concerned with the environment of Northern Ireland. Its 70+ Full Members represent over 90,000 individuals, 262 subsidiary groups, have an annual turnover of £70 million and manage over 314,000 acres of land. Members are involved in environmental issues of all types and at all levels from the local community to the global environment. NIEL brings together a wide range of knowledge, experience and expertise which can be used to help develop policy, practice and implementation across a wide range of environmental fields.

These comments are made on behalf of Members, but some members may be providing independent comments as well. If you would like to discuss these comments further we would be delighted to do so.

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NIEL welcomes the opportunity to engage with the Department on the proposed changes to the EIA (agriculture) regulations.

The 2014 EIA Directive makes reference to changes that both ‘simplify’ and ‘strengthen’ the overall EIA process. The primary purpose of EIA remains “high level of protection of the environment” and the first reason given for the new Directive is to “strengthen the quality of the environmental impact assessment procedure”. In general we are supportive of the changes that have been brought in by the Directive. Our views on some of the key issues referred to in the consultation document are outlined below:

- The screening process is one of the areas deemed necessary to strengthen in order to facilitate better decision making. The requirement for additional information to be required up front at the screening stage is necessary to ensure more effective and robust screening decisions.
- In principle we are supportive of a coordinated procedure to help streamline the process and reduce administrative burden. However, we are concerned how it will be applied in practice in NI given past discrepancies and mis-application of the EIA Regulations. For example, in some instances, one authority has deemed the effect(s) of a proposal to be significant, thereby failing Appropriate Assessment, whereas the same effect(s) is not considered significant by another authority (planning), thereby negating the requirement for EIA. A co-ordinated approach could perpetuate past mistakes and misunderstandings that pervade the current environmental assessment process. Careful consideration and further scrutiny is required to determine whether a coordinated approach is suitable in the Northern Irish context to facilitate a robust assessment process.
- Wales operates a ‘no-threshold policy’ under the EIA regime, their justification being: “Setting thresholds could cause some significant projects to fall outside the scope of the legislation, impacting negatively on Wales’ environment and inhibiting the Welsh Government’s ability to achieve the objectives of the EIA Regulations”. Northern Ireland should consider a similar policy. The current 2ha threshold is too high and could discount valuable semi-natural habitat. Northern Ireland has retained a higher coverage of semi-natural grassland than elsewhere in the UK, but as elsewhere, much has been lost since the

1950s, due to conversion to improved grassland. As a result, there has been a significant reduction in the amount of this important grassland and the rich wildlife they support.

- The changes proposed to the Screening process will place additional pressures on competent authorities to ensure they have sufficient information to underpin their screening decisions and to properly examine the additional information provided at screening stage. We are concerned that competent authorities and statutory agencies are under-resourced and do not have adequate access to independent ecological expertise to support the additional screening requirements. It is essential that these resourcing issues are addressed.
- Further clarification is required around the definition of, and criteria for judging, 'significant' environmental effects. It is necessary to define 'significant' and outline the criteria that will be used to determine whether or not environmental effects are significant.
- We welcome inclusion of the expected effects deriving from the vulnerability of the project to major risks or accidents. Clarification is required around how a major risk or disaster is defined and examples of such circumstances should be provided. For example, given the importance of climate resilience this Regulation should include considerations around the potential vulnerability of a project to climate impacts, such as flooding.
- We support broadening the scope of EIA to cover new factors (e.g. biodiversity, land, human health) and to cover risks of major accidents/disasters. Guidance is key to ensuring these new issues are considered consistently and robustly within all stages of the EIA.
- It is questionable whether developments which appear to have 'significant negative effects' on the environment should be given permission if there is no substantial evidence that these effects can be mitigated or offset. Ensuring developers adhere to mitigation measures and monitoring conditions is critically important. Robust enforcement is essential to ensure that breaches of the requirements are detected. Furthermore, breaches should carry sufficient penalties to act as a strong deterrent to future violations.
- A new provision should be included in the Transposing Regulations to ensure easy access to environmental information at all stages in the EIA process. A central portal of information should be provided, establishing a central sign-posting hub for all EIA information.
- While these amendments should bring us into line with other UK jurisdictions and EU Member States, we are lagging behind on a whole range of other environmental issues. For example, of relevance to this consultation is the issue of 'independence' around assessing, evaluating

and monitoring environmental impacts and the associated need for effective enforcement. The catalogue of environmental failures in NI is well documented and we are increasingly perceived across the rest of the UK and EU to be underperforming in relation to environmental protection. This undermines our ability to project and sustain a clean green image when trading across the EU, promoting tourism and economic development. The NI Executive needs to urgently review the need for an Independent Environmental Protection Agency. Attaining minimum acceptable environmental standards will be a key factor in achieving a sustainable and prosperous future for Northern Ireland.