

Environmental Impact Assessment (EIA) Regulations: An overview

Environmental Impact Assessment (EIA) is the process undertaken to determine whether a proposed development may have potential effects (positive or negative) on the environment, before any planning decisions are made.

In the UK the requirement for EIA is determined by the process of screening, in accordance with the EIA (Scotland) Regulations 1999 (as amended) or the Town and Country Planning (EIA) (England and Wales) Regulations 1999 (as amended). The EIA Regulations implement European Council Directive No. 85/337/EEC (as amended by Directive No. 97/11/EC, 'The EIA Directive') on the assessment of the effects of certain public and private projects on the environment. Schedule I of the regulations lists large scale or high impact developments which will always require an EIA, whereas Schedule II lists developments which may or may not require an EIA depending on the characteristics and location of the development and the significance of the potential impact. Figure 1 presents the process by which the requirement for EIA is determined.

In Scotland, guidance on the EIA Regulations is provided within Circular 8/2007 'The Environmental Impact Assessment (Scotland) Regulations 1999' (Scottish Government, 2007) and PAN 58 EIA (Scottish Executive, 1999).

The EIA process plays an important role in project development, ensuring that all environmental aspects are considered through a scoping process, and any environmental constraints are identified at an early stage. The developer can ask the competent authority for their opinion on what information needs to be included in the EIA. Sufficient data must be collected and collated to ensure any potential effects are reported in a robust manner. A consultation exercise is undertaken with statutory and non-statutory bodies to provide environmental information relevant to the development. Any significant effects identified from the proposed development are considered in the EIA process and appropriate mitigation measures are proposed to avoid, reduce and offset those impacts. The results of an EIA are presented in an Environmental Statement (ES). The ES is submitted with an application for planning permission.

The ES (and the application to which it relates) must be publicised. Stakeholders with relevant environmental responsibilities and the public must be given an opportunity to comment on the project and ES. The ES, together with any other information, comments and representations made on it, must be taken into account by the competent authority in deciding whether or not to give consent for the development. The public must be informed of the decision and the main reasons for it.

Atmos Consulting is fully conversant with all relevant legislative and statutory regulations which govern the EIA process across different sectors and countries. Our depth and breadth of experience means that we are well placed to advise and support clients through the entire EIA process. Contact us to find out how we can help you.

Determining the need for an EIA

EIA and other assessments of environmental effects

In addition to the EIA (Scotland) Regulations 1999, there are a number of other European Community Directives which require the assessment of effects on the environment. The Scottish Government also imposes guidance on a number of other procedural measures which must be followed in completing the full process, such as:

- Compiling an Environmental Statement
- Provision to seek a formal opinion from the planning authority on the scope of an ES
- Request to Scottish Ministers for a scoping direction
- Effect of a scoping opinion or direction
- Provision of information by the consultation bodies
- Submission of EIA Applications and Initial Publicity Procedures
- Copies of Environmental Statement for the consultation bodies
- Further information provided for a public inquiry
- Securing mitigation measures

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Sector	Regulations
Planning	<ul style="list-style-type: none"> – Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (SI No 293) – Town and Country Planning (Environmental Impact Assessment) (England and Wales) (Amendment) Regulations 2000 (SI 2000 No 2867) - implements EIA for reviews of existing mineral permissions
Forestry	<ul style="list-style-type: none"> Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999 (SI 2228) Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006
Land drainage	<ul style="list-style-type: none"> Environmental Impact Assessment (Land Drainage Improvement Works) Regulations 1999 (SI 1783)
Fish farming	<ul style="list-style-type: none"> Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations (SI 367) - England & Wales, Scotland Transport – Highways (Assessment of Environmental Effects) Regulations 1999 (SI No. 369) – Transport and Works (Assessment of Environmental Effects) Regulations 2000 (SI 2000 No. 3199) – Transport and Works (Assessment of Environmental Effects) Regulations 1995 (SI 1995 No. 1541) – Transport and Works (Assessment of Environmental Effects) Regulations 1998 (SI 1998 No. 2226) - applies to England & Wales
Ports and Harbours	<ul style="list-style-type: none"> – The Harbour Works (Environmental Impact Assessment) Regulations 1999 (SI 1999 No. 3445) - England & Wales, Scotland – The Harbour Works (Environmental Impact Assessment) (Amendment) Regulations 2000 (SI 2000 No. 2391) - England & Wales, Scotland – The Harbour Works (Environmental Impact Assessment) (Amendment) (England and Wales) Regulations 2009
Energy	<ul style="list-style-type: none"> – The Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000 (SI 2000 No 1927) – Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999 (SI 1999 No 2892) - applies to England & Wales, & Scotland – The Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (SI 1999 No. 360) – applies to England & Wales, Scotland, & Northern Ireland. – The Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (SI 1999 No 1672) - applies to England, Scotland & Wales – The Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (SI 2000 No. 1928) - applies to England & Wales, Scotland, & Northern Ireland

Sector	Regulations
Agriculture	<ul style="list-style-type: none"> – Environmental Impact Assessment (Uncultivated Land and Seminatural Areas) (England) Regulations 2001 (SI 2001 No. 3966) – Environmental Impact Assessment (Uncultivated Land and Seminatural Areas) (Wales) Regulations 2002 (SI 2002 No. 2127 (W214)) – The Environmental Impact Assessment (Agriculture) (England)(No.2) Regulations 2006
Water abstraction	Water Resources (Environmental Impact Assessment) (England and Wales) Regulations 2003 (SI 2003 No. 164)

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