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STATUTORY INSTRUMENTS

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**2019 No. 31**

**The Drainage (Environmental Impact Assessment)  
(Amendment) (Northern Ireland) (EU Exit) Regulations 2019**

**PART 2**

Amendment of primary legislation

**Amendment of the Drainage (Northern Ireland) Order 1973**

2.—(1) The Drainage (Northern Ireland) Order 1973<sup>(1)</sup> is amended as follows.

(2) In Article 2 (interpretation)—

(a) in paragraph (2)—

(i) omit the definition of “another member State”;

(ii) omit the definition of “another EEA State”;

(iii) omit the definition of “EEA State”;

(iv) after the definition of “general advertisement” 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 by Council [Directive 2013/17/EU](#);”;

(v) after the definition of “sluice” insert—

““species and habitats” means—

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

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

(c) animal and plant species listed in Annex 2 or Annex 4 to the Habitats Directive;”;

(vi) omit the definition of “ Union Legislation”.

(b) in paragraph (2A), for “another EEA State” substitute “an EEA State”

(3) In Article 12ZA (direction that articles do not apply)—

(a) in paragraph (1)(a)—

(i) omit the words from the beginning to “Article 7 of the Directive”;

(ii) omit “, provided the objectives of the Directive are met”.

(b) in paragraph (3), for “another EEA State” substitute “an EEA State”.

- (4) In Article 12A (consultations and determinations on whether a drainage scheme has significant effects on the environment)—
- (a) in paragraph (2)(a), for “Union legislation” substitute “retained EU law”;
  - (b) in paragraph (5)(d), for “another EEA State” substitute “an EEA State”;
  - (c) in paragraph (10), for “Union legislation” substitute “retained EU law”.
- (5) In Article 12B (drainage schemes likely to have significant effects on the environment), in paragraph (2)(f), for “another EEA State” substitute “an EEA State”.
- (6) In Article 12G (drainage schemes likely to have significant effects on the environment in another EEA State)—
- (a) in the heading and in paragraph (1), in each place it occurs, for “another EEA State” substitute “an EEA State”;
  - (b) in paragraph (3)(a), for the words from “referred to in Article 6(1) of the Directive” to the end substitute “which the EEA State has designated to be consulted about the proposed drainage scheme and to the public concerned in that State; and”;
  - (c) in paragraph (4)—
    - (i) omit “in accordance with Article (7)(4) of the Directive”;
    - (ii) in sub-paragraph (b), for “the other EEA State” substitute “that EEA State”.
- (7) In Article 12I (monitoring), in paragraph (2)(b), for “Union legislation” substitute “retained EU law”.
- (8) In Schedule 2A (information for inclusion in environmental statement)—
- (a) for paragraph 4, for “Article 3(1) of the Directive” substitute “paragraph 1 of Schedule 2C”;
  - (b) in paragraph 6—
    - (i) for “specified in Article 3(1) of the Directive” substitute “set out in paragraph 4”;
    - (ii) for the words from “established at EU or member State level” to the end substitute “contained in retained EU law or any statutory provision which are relevant to the works, including in particular those objectives contained in any retained EU law or statutory provision which implemented the Habitats Directive and [Directive 2009/147/EC](#) of the European Parliament and of the Council on the conservation of wild birds.”;
  - (c) in paragraph 9, for the second sentence substitute “Relevant information available and obtained through risk assessments carried out pursuant to retained EU law or relevant assessments carried out pursuant to any statutory provision may be used for this purpose provided that the requirements of any retained EU law or statutory provision that implemented the Directive are met”.
- (9) In Schedule 2B (selection criteria)—
- (a) in the heading, omit “referred to in Article 4(3) of the Directive”;
  - (b) in paragraph 2(c)(v), for the words from “EEA States’ legislation,” to the end substitute “retained EU law or under any statutory provision; Natura 2000 (as defined in regulation 2(2) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995);”;
  - (c) in paragraph 2(c)(vi), for “Union Legislation” substitute “retained EU law”;
  - (d) in paragraph 3, for “specified in Article 3(1) of the Directive” substitute “set out in paragraph 1 of Schedule 2C”.

(10) In Schedule 2C (environmental factors to be taken into account), in paragraph (1)(b), omit “protected under [Directive 92/43/EEC](#) and [Directive 2009/147/EEC](#)”.