

**2019 No. 377**

**EXITING THE EUROPEAN UNION, NORTHERN  
IRELAND**

**ENVIRONMENTAL PROTECTION, NORTHERN  
IRELAND**

**ROADS, NORTHERN IRELAND**

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

<i>Sift requirements satisfied</i>	<i>19th February 2019</i>
<i>Made - - - -</i>	<i>25th February 2019</i>
<i>Laid before Parliament</i>	<i>28th February 2019</i>
<i>Coming into force in accordance with regulation 1(2) and (3)</i>	

The Secretary of State is a Minister designated (a) for the purposes of section 2(2) of the European Communities Act 1972 in relation to the environment.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(b) and section 8(1) of, and paragraph 21(a)(i) and (b) of Schedule 7 to, the European Union (Withdrawal) Act 2018(c).

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 Roads (Environmental Impact Assessment) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019.

(2) Subject to paragraph (3), these Regulations come into force on exit day.

(3) The following provisions come into force on the twenty first day after the day on which these Regulations are laid—

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(a) S.I. 2008/301.

(b) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7). The European Communities Act 1972 is prospectively repealed by section 1 of the European Union (Withdrawal) Act 2018 (c. 16) on exit day (see section 20 of that Act).

(c) 2018 c. 16.

- (a) this regulation,
- (b) regulation 3(2)(a)(i), and regulation 3(1) so far as it relates to that regulation.
- (4) These Regulations extend to Northern Ireland only.

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

2.—(1) Part V of the Roads (Northern Ireland) Order 1993(a) is amended as follows.

(2) In Article 67(b) (environmental impact assessment)—

(a) in paragraph (1)—

(i) for the definition of “EEA State” substitute—

““EEA State” has the meaning given in Schedule 1 to the Interpretation Act 1978(c);”;

(ii) after the definition of “environmental information” insert—

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

(iii) omit the definition of “Union legislation”;

(b) after paragraph (2) insert—

“(2A) For the purposes of this Part, Annex III and Annex IV are to be read with the following modifications—

(a) in Annex III—

(i) in point 2(c)(v), for the words from “Natura 2000” to the end, there were substituted “areas forming part of Natura 2000 (as defined in regulation 2(2) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995(e));

(ii) in point 2(c)(vi), the reference to Union legislation were a reference to retained EU law;

(b) in Annex IV—

(i) in point 4, the reference to Article 3(1) were a reference to Article 67(8) of this Order;

(ii) in point 5, in the text following paragraph (g)—

(aa) the reference to Article 3(1) were a reference to Article 67(8) of this Order;

(bb) the words “established at Union or Member State level” were omitted;

(iii) in point 8, for the second sentence, there were substituted—

“Relevant information available and obtained through risk assessments pursuant to retained EU law (having the same meaning as in the European Union (Withdrawal) Act 2018), such as any law which implemented Directive 2012/18/EU of the European Parliament and of the Council or Council Directive 2009/71/Euratom, or relevant assessments undertaken under other domestic legislation may be used for this purpose provided that the requirements of any law which implemented this Directive in Northern Ireland are met.”;

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(a) S.I. 1993/3160 (N.I. 15), as amended by S.R. 1999 No. 89, S.R. 2007 No. 346 and S.R. 2017 No. 87; there are other amendments which are not relevant.

(b) Article 67 was substituted by S.R. 1999 No. 89 and amended by S.R. 2007 No. 346 and S.R. 2017 No. 87.

(c) 1978 c. 30.

(d) OJ No. L 206, 22.7.1992, p. 7; amended by Directive 97/62/EC, Regulation (EC) No. 1882/2003, Directive 2006/105/EC and Directive 2013/17/EU.

(e) S.R. 1995 No. 380, to which there are amendments not relevant to these Regulations.

- (c) in paragraph (3), for “falls within Annex I or II” substitute “is of a type specified in Annex I or Annex II”;
  - (d) for paragraph (4)(a) (but not the “or” at the end), substitute—
    - “(a) if the circumstances are exceptional and the Department considers that—
      - (i) compliance with this Part would have an adverse effect on the fulfilment of the purpose of the project;
      - (ii) the objectives of the Directive will be met even though an environmental impact assessment is not carried out; and
      - (iii) the project is unlikely to have significant effects on the environment in an EEA State;”
  - (e) in paragraph (4A), omit sub-paragraph (d);
  - (f) in paragraph (4B)—
    - (i) in sub-paragraph (a), for “falls within” substitute “is of a type specified in”;
    - (ii) in sub-paragraph (b), for “falling within” substitute “of a type specified in”;
  - (g) in paragraph (4C)—
    - (i) in the words before sub-paragraph (a), for “falling within” substitute “of a type specified in”;
    - (ii) in sub-paragraph (c), for “Union legislation” substitute “retained EU law”;
  - (h) in paragraph (6)(d), for “Union legislation” substitute “retained EU law”;
  - (i) in paragraph (8)(b), for the words from “species and habitats” to the end, substitute—
    - “(i) species of naturally occurring birds in the wild state specified in Annex 1 to Directive 2009/147/EC<sup>(a)</sup> of the European Parliament and of the Council on the conservation of wild birds, as amended by Council Directive 2013/17/EU;
    - (ii) natural habitat types listed in Annex I to the Habitats Directive;
    - (iii) animal and plant species listed in Annex II or Annex IV to the Habitats Directive;”.
- (3) In Article 67A<sup>(b)</sup> (procedure), in paragraph (7C)(b), for “Union legislation” substitute “retained EU law”.
- (4) In Article 67B<sup>(c)</sup> (other EEA States)—
- (a) for the heading, substitute “Projects likely to have significant effects on the environment in an EEA State”;
  - (b) in paragraph (1)(a), for “another EEA State” substitute “an EEA State”;
  - (c) in paragraph (5), for the words from “designated to be consulted” to the end, substitute “which the EEA State has designated to be consulted about the project and of the public concerned in that State.”;
  - (d) in paragraph (6), omit “, in accordance with Article 7(4) of the Directive”.
- (5) In Article 67BZA<sup>(d)</sup> (projects in another EEA State likely to have significant transboundary effects)—
- (a) in the heading, for “another EEA State” substitute “an EEA State”;
  - (b) in paragraph (1)—
    - (i) for “another EEA State pursuant to Article 7(1) or 7(2) of the Directive” substitute “an EEA State”;

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(a) OJ No. L 20, 26.1.2010, p. 7; amended by Directive 2013/17/EU.

(b) Article 67A was inserted by S.R. 1999 No. 89 and amended by S.R. 2007 No. 346 and S.R. 2017 No. 87.

(c) Article 67B was inserted by S.R. 1999 No. 89 and amended by S.R. 2007 No. 346 and S.R. 2017 No. 87.

(d) Article 67BZA was inserted by S.R. 2017 No. 87.

- (ii) in sub-paragraph (b), for the words from “to the competent authority” to the end, substitute “representations to the authority in that EEA State which the EEA State has 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”.

### **Amendment of superseded provisions of the Roads (Northern Ireland) Order 1993**

**3.**—(1) Articles 67, 67A and 67B of the Roads (Northern Ireland) Order 1993, as they continue to have effect by virtue of regulation 8 of the Roads (Environmental Impact Assessment) Regulations (Northern Ireland) 2017(a), are amended as follows.

(2) In Article 67 (environmental impact assessment)—

(a) in paragraph (1)—

(i) for the definition of “the Directive” substitute—

““the Directive” means 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, as it had effect prior to its amendment by Directive 2014/52/EU(b);”;

(ii) for the definition of “EEA State” substitute—

““EEA State” has the meaning given in Schedule 1 to the Interpretation Act 1978;”;

(b) after paragraph (2) insert—

“(2A) For the purposes of this Part, Annex III is to be read with the following modifications—

(a) in point 2(c)(v), for the words from “Member States’ legislation” to the end, there were substituted “retained EU law (having the same meaning as in the European Union (Withdrawal) Act 2018) or other statutory provision (as defined in section 1(f) of the Interpretation Act (Northern Ireland) 1954), including areas forming part of Natura 2000 (as defined in regulation 2(2) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995)”;

(b) in point 2(c)(vi), the reference to Union legislation were a reference to retained EU law.”;

(c) in paragraph (3), for “falls within Annex I or II” substitute “is of a type specified in Annex I or Annex II”;

(d) in paragraph (4)—

(i) in sub-paragraph (a), for “falls within” substitute “is of a type specified in”;

(ii) in sub-paragraph (b), for “falling within” substitute “of a type specified in”.

(3) In Article 67A (procedure), in paragraph (7)(bb)(iii), omit “under Article 6(1) of the Directive”.

(4) In Article 67B (other EEA States)—

(a) for the heading, substitute “EEA States”;

(b) in paragraph (1)(a), for “another EEA State” substitute “an EEA State”;

(c) in paragraph (5), in sub-paragraph (a)(i), for “referred to in Article 6(1) of the Directive” substitute “which the EEA State has designated to be consulted about the project”;

(d) in paragraph (6), omit “, in accordance with Article 7(4) of the Directive”.

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(a) S.R. 2017 No. 87.

(b) OJ No. L 26, 28.1.2012, p. 1.

Signed by authority of the Secretary of State for Transport

25th February 2019

*Jesse Norman*  
Minister of State  
Department for Transport

### **EXPLANATORY NOTE**

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

These Regulations make amendments to legislation in the field of environmental protection, specifically to Part V of the Roads (Northern Ireland) Order 1993 (S.I. 1993/3160 (N.I. 15)), which relates to environmental impact assessment of road construction projects.

These Regulations are made in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c.16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union. These Regulations are also made under section 2(2) of the European Communities Act 1972 (c. 68) for reasons unconnected to the withdrawal of the United Kingdom from the European Union.

Apart from regulation 3(2)(a)(i), these Regulations make amendments to Part V of the Roads (Northern Ireland) Order 1993 to correct deficiencies of the type mentioned in section 8(2)(a) and (g) of the European Union (Withdrawal) Act 2018 (matters which have no practical application to the United Kingdom or are otherwise redundant, and EU references which are no longer appropriate).

Regulation 3(2)(a)(i) amends the definition of “the Directive” for the purposes of the superseded provisions of Part V of the Roads (Northern Ireland) Order 1993 which continue to apply in relation to certain road projects initiated before 16 May 2017. The amendment reflects the repeal and replacement of Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (OJ No. L175, 5.7.85, p.40) by Directive 2011/92/EU of the European Parliament and of the Council (OJ No. L26, 28.1.2012, p.1).

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

An Explanatory Memorandum is published alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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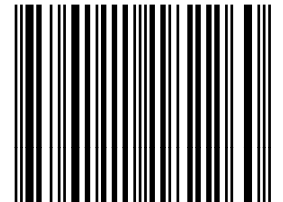


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