



Department for  
Business, Energy  
& Industrial Strategy

# Environmental Impact Assessment: Technical Consultation (Regulations on offshore hydrocarbon-related developments and on pipe-lines)

February 2017



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## Scope of the consultation

Topic of this consultation:	The proposed approach to implementing European Directive 2014/52/EU amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment.
Scope of this consultation:	The consultation seeks views on draft Regulations which will amend existing Regulations implementing the requirements of the Environmental Impact Assessment Directive insofar as they apply to the consenting regimes for offshore hydrocarbon-related developments including pipe-lines (i.e. offshore oil and gas operations, offshore gas unloading and storage operations and offshore carbon dioxide storage operations) and onshore pipe-line projects.
Geographical scope:	The regulatory proposals for transposing Directive 2014/52/EU relate to any designated area of the United Kingdom Continental Shelf (including tidal waters and parts of the sea adjacent to the UK from the low water mark up to the seaward limits of territorial waters) and the UK mainland (except where specified legislative functions in respect to onshore pipe-line projects in Scotland have been transferred to Scottish Ministers).
Impact Assessment:	As a European Union measure with no gold-plating, this is a Non-Qualifying Regulatory Provision (NQR) under the Better Regulation Framework. However, a Costs and Benefits Analysis conducted by BEIS is included in this consultation document (paragraphs 80 to 97 and Annexes A to F).



## Basic Information

To:	This consultation is aimed at all those with an interest in the Environmental Impact Assessment Directive and how it interacts with the regulatory consenting regimes for offshore hydrocarbon-related developments including pipe-lines and onshore pipe-line projects.
Body/bodies responsible for the consultation:	Department for Business, Energy and Industrial Strategy
Duration:	This consultation will last for 4 weeks from: 16 February to 16 March 2017
Enquiries:	For any enquiries about the consultation please contact: Name: <a href="mailto:David.Foskett@beis.gov.uk">David.Foskett@beis.gov.uk</a> ; Phone Number: 0300 068 6063
How to respond:	<p>You may respond by completing an online survey at: <a href="https://beisgovuk.citizenspace.com/energy-development/eia-directive-transposition-offshore-petroleum">https://beisgovuk.citizenspace.com/energy-development/eia-directive-transposition-offshore-petroleum</a></p> <p>Alternatively you can email your response to the questions in this consultation to:  <a href="mailto:David.Foskett@beis.gov.uk">David.Foskett@beis.gov.uk</a></p> <p>If you are responding in writing, please make it clear which questions you are responding to.</p> <p>Written responses should be sent to:</p> <p>David Foskett Department for Business, Energy and Industrial Strategy (BEIS) Floor 4 - Area C 3 Whitehall Place London SW1A 3AW</p>



When you reply it would be useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:

- your name,
- your position (if applicable),
- the name of organisation (if applicable),
- an address (including post-code),
- an email address, and
- a contact telephone number



## Exit from the European Union

1. On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until negotiations to exit the EU are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.



## Introduction

2. The Government is inviting comments on the enclosed consultation which sets out proposals for implementing European Directive 2014/52/EU amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (known as the “Environmental Impact Assessment” or “EIA” Directive and referred to in this document as the “EIA Directive”) in so far as the EIA Directive applies to the consenting regimes for offshore hydrocarbon-related developments including pipe-lines and onshore pipe-line projects.
3. The EIA Directive’s main aim is to provide a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation of projects with a view to reducing their impact on the environment.
4. The EIA Directive first came into force in 1985 as Council Directive 85/337/EEC (the “1985 Directive”) and was amended in 1997, 2003 and 2009. The 1985 Directive and its three amendments were codified by Directive 2011/92/EU in advance of the European Commission adopting a proposal in October 2012 to amend the current Directive. Following negotiations in the European Parliament and Council a compromise amending text was agreed. The amending Directive entered into force on 15 May 2014 (as Directive 2014/52/EU – the “2014 Directive”). Member States have to transpose the amendments to the EIA Directive into domestic legislation by 16 May 2017.
5. The EIA Directive is currently integrated into the consenting regimes for offshore hydrocarbon-related developments including pipe-lines (i.e. offshore oil and gas operations, offshore gas unloading and storage operations and offshore carbon dioxide storage operations) and onshore pipe-line projects on the UK mainland (except where specified legislative functions in respect to onshore pipe-line projects in Scotland have been transferred to Scottish Ministers) through:
  - (a) the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (S.I. 1999/360) (as amended)<sup>1</sup> as modified by Article 2 of the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 (S.I. 2010/1513);

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<sup>1</sup> Amending instruments are the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) (Amendment) Regulations 2007 (S.I. 2007/933), the Pollution Prevention and Control (Fees) (Miscellaneous Amendments and Other Provisions) Regulations 2015 (Article 8) (S.I. 2015/1431) and the Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 (S.I. 2016/912).





**(b)** the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended) (S.I. 1999/1672);<sup>2</sup> and

**(c)** the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended) (S.I. 2000/1928)<sup>3</sup>.

These sets of Regulations are hereinafter referred to as “the existing Production and Pipelines (EIA) Regulations” unless otherwise stated. Environmental impact assessment is therefore well established in domestic legislation and planning practice for energy infrastructure and other related projects.

6. The EIA Directive also applies to energy project types which fall outside of the existing Production and Pipelines (EIA) Regulations including those granted under the Planning Act 2008. These projects are subject to separate consenting regimes and Environmental Impact Assessment Regulations. The amendments to the EIA Directive must be implemented through each of these regimes, and other Government Departments<sup>4</sup> will lead on transposing the amendments to these regimes. The devolved administrations of Scotland, Wales and Northern Ireland are responsible for transposing the amendments in respect of matters which are devolved.
7. The EIA Directive 2011/92/EU and the amending 2014 Directive can be seen via these links:  
<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32011L0092&from=EN>  
<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0052&from=EN>  
The European Commission has also produced an unofficial consolidated version of the EIA Directive which is available here:  
[http://ec.europa.eu/environment/eia/pdf/EIA\\_Directive\\_informal.pdf](http://ec.europa.eu/environment/eia/pdf/EIA_Directive_informal.pdf).

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<sup>2</sup> Amended by the Gas Transporter Pipe-line Works (Environmental Impact Assessment) (Amendment) Regulations 2007 (SI 2007/ 1996).

<sup>3</sup> Amended by the Pipe-line Works (Environmental Impact Assessment) (Amendment) Regulations 2007 (S.I. 2007/1992)

<sup>4</sup> Department for Communities and Local Government (e.g., town and country planning, nationally significant infrastructure projects under the Planning Act 2008); Department for Environment, Food and Rural Affairs (e.g. agriculture and marine works); and Department for Transport (e.g. highways and transport).



## Background

### What is an Environmental Impact Assessment?

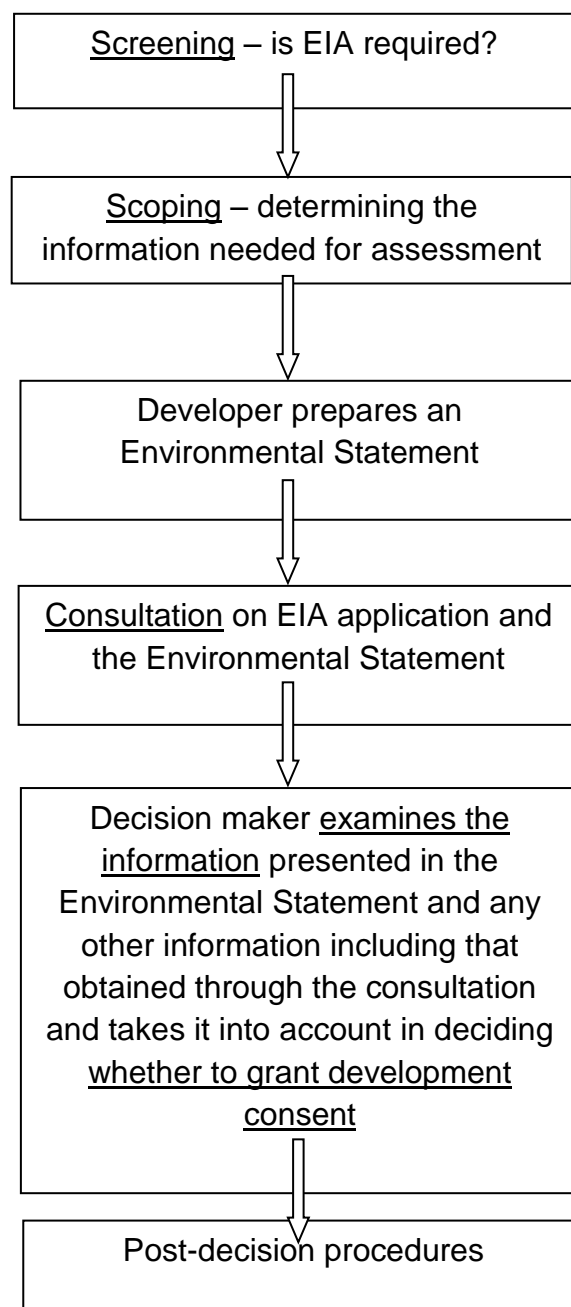
8. Environmental impact assessment (“EIA”) is a process. It aims to provide a high level of protection to the environment and to help integrate environmental considerations into the preparation of projects to reduce their impact on the environment. It seeks to ensure that proposals for development (referred to as ‘projects’ in the EIA Directive) which are likely to have a significant effect on the environment, for instance, by virtue of their nature, size or location are subject to a requirement for development consent and an assessment of those effects before the development is allowed to proceed.
9. An EIA is a means of drawing together, in a systematic way, an assessment of a project’s likely significant effects on the environment. This process helps to ensure that: **(a)** the public have a chance to provide their views on a proposed project; and **(b)** the relevant authority to which an application for ‘project consent’ is submitted (the “competent authority”) makes its decision in the knowledge of any likely significant effects on the environment prior to consent being given. The EIA Directive therefore sets out a procedure that must be followed for certain types of project before they can be given “development consent”.
10. Some project types are considered likely to always have significant effects on the environment and must therefore be subject to the full environmental impact assessment process whereby all applications for consent have to be supported by Environmental Statements (i.e. detailed assessments of the potential significant impacts of projects). These project types are listed in Annex I of the EIA Directive. Although the amending EIA Directive refers to “environmental impact assessment (EIA) report(s)”, for the purposes of this consultation document and BEIS’s transposition proposals, we are continuing to use the term “Environmental Statement(s)” as it is a term with which offshore and onshore project developers are familiar.
11. Other project types are only considered likely to have significant effects in some cases depending on their nature, size and location. These project types are listed in Annex II of the EIA Directive. Projects listed in Annex II must be subject to environmental impact assessment where it is determined that they are likely to have significant effects on the environment. The process for determining whether a project listed in Annex II is likely to have significant effects on the environment is usually referred to as ‘screening’. Member States can decide



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whether a project listed in Annex II should be subject to the full environmental impact assessment process (i.e. the need to prepare an Environmental Statement) through a case-by-case examination and / or by setting thresholds or criteria.

12. Where an environmental impact assessment is required, the project developer must provide specified information to the relevant competent authority which enables the authority to make an informed decision on whether the project should proceed. It also requires that the public and other bodies (including those in an EEA State if a project is likely to have transboundary effects) are consulted and given an opportunity to participate in the decision-making process. The EIA process is made up of several stages as set out below.





## Implementation of the EIA Directive through the existing Production and Pipelines (EIA) Regulations

13. The obligations in the EIA Directive for certain offshore and onshore energy projects are presently implemented through the existing Production and Pipelines Regulations.
14. Consent under the existing Production and Pipelines (EIA) Regulations for offshore hydrocarbon-related developments including pipe-lines on the UKCS and onshore pipe-line projects on the UK mainland are granted by the Oil and Gas Authority (OGA) or the Secretary of State respectively in connection with the types of applications detailed below (and where the OGA is the consenting authority, this consent is subject to the separate agreement of the Secretary of State):

**(a)** Applications always requiring an Environmental Statement:

**(i)** The erection of any structure in relation to a relevant project / development which will involve the extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes per day in the case of petroleum and 500,000 cubic metres per day in the case of gas.

**(ii)** Pipelines with a diameter of more than 800 mm and a length of more than 40 km:

- for the transport of gas, oil, chemicals; and
- for the transport of carbon dioxide streams for the purposes of geological storage, including associated booster stations.

**(iii)** Storage sites pursuant to Directive 2009/31/EC on the geological storage of carbon dioxide.

**(iv)** Any change to or extension of projects listed in parts (i) to (iii) where such a change or extension in itself meets the specified thresholds.

**(b)** Applications subject to a determination that no Environmental Statement needs to be prepared (i.e. projects not listed under item (a)):

**(i)** Deep drillings.

**(ii)** Industrial installations for the extraction of petroleum and natural gas.

**(iii)** Industrial installations for carrying gas, steam and hot water.



**(iv)** Underground storage of combustible gases.

**(v)** Oil and gas pipeline installations and pipelines for the transport of carbon dioxide streams for the purposes of geological storage not covered in sub-paragraph (a).

**(vi)** Any change or extension of projects listed in parts (i) to (v) that are already authorised, executed or in the process of being executed, which may have significant adverse effects on the environment.

15. The existing Production and Pipe-lines (EIA) Regulations set out the types of projects for which consents (including variations to extant consents) are required.



## Why is EIA Changing?

16. The European Commission website<sup>5</sup> states that the amending EIA Directive aims to simplify the rules for assessing the potential effects of projects on the environment in line with the drive for smarter regulation, aiming to lighten unnecessary administrative burdens. It states that the Directive also improves the level of environmental protection, with a view to making business decisions on public and private investments more sound, more predictable and sustainable in the longer term.
17. The new approach also aims to be forward looking, by paying greater attention to threats and challenges that have emerged since the original rules came into force. This means more attention being given to areas like resource efficiency, climate change and major accidents and/or disasters, which will be better reflected in the assessment process.
18. The changes we consider to be of most significance which were introduced by the 2014 Directive are:

Article 1(2)(g)	Definition of EIA process.
Article 1(3)	Changes to the circumstances in which a project may be exempted from the requirements of the EIA Directive.
Article 2(3)	Joint / coordinated procedures for projects that are subject to assessments under the Habitats or Wild Birds Directives as well as under the EIA Directive.
Article 2(4)	Provisions for exempting, in exceptional circumstances, specific projects from the Directive's obligations where the application of those obligations would adversely affect the purpose of projects.
Article 2(5)	Provision whereby projects adopted by specific acts of national legislation may be exempted from the Directive's public consultation requirements.
Article 3(1)	Changes to the list of factors, the effects of which are to be assessed as part of the EIA process.
Article 3(2)	Introduces a new requirement to consider the expected effects deriving from the vulnerability of a project to risks of major accidents and / or disasters that are relevant to the project.
Article 4 (plus Annexes IIA and III)	Clarification of the options for screening and amendments to the information which is required and the criteria to be applied when screening projects to determine whether the full EIA process (i.e. the need to prepare an Environmental Statement) applies.

<sup>5</sup> <http://ec.europa.eu/environment/eia/review.htm>



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Article 4(6)	Sets a maximum timeframe not exceeding 90 days (extendable in exceptional circumstances) for competent authorities to provide screening decisions to project developers.
Article 5(1) (plus Annex IV)	Amendments to the information to be included in an Environmental Statement.
Article 5(2)	A requirement for an Environmental Statement to be 'based on' a scoping opinion, where one is issued.
Article 5(3)	Requirements for Environmental Statements to be prepared by competent experts, for the competent authority to have access to sufficient expertise to examine Environmental Statements and for the competent authority to seek supplementary information.
Article 6(1)	Requirement to ensure appropriate authorities are given an opportunity to express opinions on information provided by project developers in an application for consent.
Articles 6(2), 6(5) and 6(7)	Provisions for informing the public electronically - including timescales.
Article 7(5)	Public consultation requirements for projects affecting other Member States.
Article 8	Provisions for decisions to take into account the results of consultations and information gathered.
Article 8a	A new Article elaborating on information to be given in decision notices and making further provision about decision-making.
Article 8a(4)	Requirements for monitoring of significant adverse effects.
Article 8a(5)	Requirements for decisions to be made in a reasonable timeframe.
Article 8a(6)	Requirement that a competent authority's reasoned conclusion must be "up-to-date" when a decision is taken to grant consent.
Article 9(1)	Requirements for decisions and additional information about decisions (including results of consultations undertaken) to be notified to the public and consultation bodies.
Article 9a	A new Article requiring the avoidance of conflicts of interest.
Article 10a	A new Article concerning penalties for infringements of national provisions.
Article 12(2)	Provision by Member States of 'six yearly' reports providing specified to the Commission on the implementation of the EIA Directive.



## Amendments to the EIA Directive and how we propose to implement them

19. The Government's Better Regulation agenda includes the requirement that when transposing EU law the Government will ensure that the UK does not go beyond the minimum requirements of the measure which is being transposed and will use copy out for transposition where it is available, except where doing so would adversely affect UK interests. We have sought to follow these principles in transposing the amendments made by the 2014 Directive, and to minimise the additional regulatory burden whilst protecting the environment.
20. In transposing the amendments to the EIA Directive, our view at the outset is that there is merit in retaining, as far as practicable, the existing approach to environmental impact assessment for the offshore hydrocarbon and onshore pipe-line sectors as it is well understood by project developers and others involved in the procedures. Our proposals for consultation therefore represent what we consider to be the minimum changes necessary to the existing Production and Pipe-lines (EIA) Regulations in order to bring them into line with the 2014 Directive. This will also minimise familiarisation costs and business uncertainty.
21. In order to further inform our policy deliberations, we circulated - in August / September 2016 - questionnaires to the offshore hydrocarbon and onshore pipe-line sectors which:
  - (a) outlined the Department's proposals for transposing the Directive via amendments to the existing legislative frameworks; and
  - (b) sought views on what the likely costs to industry would be as a result of complying with the amended / new requirements.

We received thirteen responses from the offshore sector and one from the onshore sector. The views expressed were considered when preparing this consultation document. On the basis that the relevant sectors have already been pre-consulted, a consultation duration of four weeks on our plans for transposing the Directive is deemed sufficient.

22. We have set out below the key amendments from the 2014 Directive and our approach to transposing them. In order to effect transposition, we are proposing to further amend the existing Production and Pipe-lines (EIA) Regulations via the Offshore Production and Pipe-lines (Environmental Impact Assessment) (Amendment) Regulations 2017 (hereinafter referred to as "the OPP (EIA) Regulations 2017"), rather than produce new sets of Regulations. This





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approach to transposition is deemed to be more straightforward than alternative options such as:

**(i)** trying to replace the extant legislative framework with one Statutory Instrument (SI) which would essentially result in an overly complex SI that would be difficult for relevant industry sectors to use; or

**(ii)** replacing the existing individual Regulations with three new Regulations, which would mean rewriting three separate regimes - this would be unnecessarily time consuming and would introduce disproportionate legislative uncertainty into three well-established regimes.

23. A draft of the OPP (EIA) Regulations 2017 is attached at Annex G to this consultation document. In addition, as a consequence of the amendments to the existing Production and Pipe-lines (EIA) Regulations we are proposing to:

**(a)** make a slight clarifying adjustment to regulation 17A (Fees) of the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended); and

**(b)** use the opportunity to transfer into the Offshore 1999 Regulations the provisions set out in Article 2 of the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010.

We will also be using the OPP (EIA) Regulations 2017 to make corrections to 2 other sets of Regulations. These corrections are not being consulted on and so are not included in the draft Regulations.

It would additionally be useful to mention up-front the following points relating to the transposition of Directive 2014/52/EU:

- BEIS has considered the supplemental administrative burdens it is likely to incur under the revised EIA process from assessing the amended / new requirements which project developers will need to address in support of consent applications that are submitted on or after 16 May 2017, and concluded that where any extra costs arise then these should be offset by virtue of the fact that future submissions are required to concentrate on significant environmental impacts, thus meaning that the time spent by officials evaluating project proposals should ostensibly remain at current levels (initially in the short-term) and might even reduce going forwards.

Therefore, at this stage, and notwithstanding the additional adjustment referred to in paragraph 23(a)), we do not envisage any changes being made to the levels of fees which are charged to the offshore hydrocarbon sector for the provision of EIA regulatory services.



- To assist project developers, BEIS will need to update its regulatory guidance in order to provide clear advice on the sort of information / level of detail that should ideally be covered in environmental submissions relating to future consent applications. The table below outlines the core areas on which further guidance would be required.

Articles	Updates to Guidance
Article 3(1)	Providing guidance on BEIS’s expectations in terms of what should be covered in applications / ESs with regard to: <ul style="list-style-type: none"> <li>➤ ‘significant effects’; and</li> <li>➤ the assessment of potential impacts on the environmental factors listed in the Article and the extent to which the relevance of some of them might be limited or possibly non-existent (e.g. the effects of offshore developments on ‘population and human health’).</li> </ul>
Article 3(2)	Explaining the types of ‘natural disasters’ to which developments could realistically be vulnerable.
Article 6(2) -	Clarifying the practical steps that project developers should take to inform the public electronically (i.e. use of corporate websites etc.).
Article 8a(4)	Describing the circumstances under which additional monitoring could be included in the conditions attached to a consent (e.g. where a development was in close proximity to an environmentally sensitive areas); and explaining the nature / scope and frequency (e.g. ‘five-yearly’) of any additional monitoring that may be required.
Art. 12(2)	Providing an indication of BEIS’s intentions with respect to the supply of data by industry for the ‘six-yearly’ reports.
Annex III – Selection criteria referred to in Article 4(3)	Clarifying the issues that projects developers would need to address when considering the criteria in Annex III such as: <p><b>(i) <u>The characteristics of projects</u></b></p> <p><i>(b) cumulation with other existing and/or approved projects</i></p> <p><b><u>Issue(s)</u></b>: The availability / accessibility to information on other existing / approved projects.</p> <p><i>(f) the risk of major accidents and/or disasters which are relevant to the project concerned, including those caused by climate change, in accordance with scientific knowledge.</i></p> <p><b><u>Issue(s)</u></b>: The elements that would reasonably be expected to constitute a ‘disaster’ - including those caused by climate change. The potential environmental effects resulting from a disaster that should be taken into account. Differentiating between a ‘disaster’ and a ‘major accident’.</p>



	<p><b>(ii) <u>Type and characteristics of the potential impact</u></b></p> <p><b><u>Issue(s)</u>:</b> The level of evidence to be provided by project developers to meet these provisions. The type of evidence that would be required to satisfy the ‘intensity and complexity’ of an impact. The availability / accessibility of information to assess the cumulative impact of a project with the impact of other existing / approved projects.</p>
Annex IV	Clarification on what will be required to gather data on the ‘baseline scenario’ and what would constitutes ‘reasonable effort’ by a project developer.



## Definition of the environmental impact assessment process - Article 1(2)(g)

### Article 1(2)(g)

*“environmental impact assessment” means a process consisting of:*

*(i) the preparation of an environmental impact assessment report by the developer as referred to in Article 5(1) and (2);*

*(ii) the carrying out of consultations as referred to in Article 6 and, where relevant, Article 7;*

*(iii) the examination by the competent authority of the information presented in the environmental impact assessment report and any supplementary information provided, where necessary, by the developer in accordance with Article 5(3) and any relevant information received through the consultations under Articles 6 and 7;*

*(iv) the reasoned conclusion by the competent authority on the significant effects of the project on the environment, taking into account the results of the examination referred to in point (iii) and, where appropriate, its own supplementary examination; and*

*(v) the integration of the competent authority's reasoned conclusion into any of the decisions referred to in Article 8a.*

24. The 2014 Directive introduces a definition of “environmental impact assessment (EIA)”. In our view the definition reflects existing practice in that:

**(a)** a project developer must, if required, prepare an Environmental Statement containing specified information on their proposed project (see Article 5 below); and

**(b)** there should be consultation on the application and the Environmental Statement prepared by or on behalf of the project developer, before the competent authority examines the relevant information and comes to a reasoned conclusion on the likely significant effects of the project on the environment and integrates that conclusion into their decision as to whether to grant consent.



25. The OPP (EIA) Regulations 2017 will incorporate the EIA definition into the existing Production and Pipe-lines (EIA) Regulations as indicated in the tables below.

### **Transposition Tables**

#### **Offshore Hydrocarbons Sector**

<b>Provisions in PART 1 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)</b>
<b>Regulation 6</b>	Addition of new regulation 3A(1) to set out the EIA process as it applies to the existing regime.

#### **Onshore Pipe-lines Sector**

<b>Provisions in PART 2 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)</b>
<b>Regulation 26</b>	Addition of new regulation 2A(1) to set out the EIA process as it applies to the existing regime.

<b>Provisions in PART 3 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)</b>
<b>Regulation 45</b>	Addition of new regulation 2A(1) to set out the EIA process as it applies to the existing regime.

*See related questions under Article 1(3) on page 22.*



## Exemptions - Article 1(3)

### Article 1(3)

*Member States may decide, on a case-by-case basis and if so provided under national law, not to apply this Directive to projects, or parts of projects, having defence as their sole purpose, or to projects having the response to civil emergencies as their sole purpose, if they deem that such application would have an adverse effect on those purposes.*

26. The EIA Directive allows for a limited number of exemptions from its requirements and Article 1(3) has been amended to restrict the existing exemption for defence projects so that it can only apply where a project, or part of a project, has defence as its sole purpose. However, the exemption has also been extended to include projects which have the response to civil emergencies as their sole purpose. This provision is not mandatory and unlikely to have direct relevance to projects in the offshore hydrocarbon and onshore pipe-line sector, but Article 3(1) will be covered by the OPP (EIA) Regulations 2017 to ensure full transposition as described in the tables below.

### Transposition Tables

#### Offshore Hydrocarbons Sector

Provisions in PART 1 of the OPP (EIA) Regulations 2017	Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)
Regulation 18	Addition of new regulations 13(1)(a) and 13(2).

#### Onshore Pipe-lines Sector

Provisions in PART 2 of the OPP (EIA) Regulations 2017	Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)
Regulation 28	Addition of new regulations 3A(1)(a) and 3A(2).

Provisions in PART 3 of the OPP (EIA) Regulations 2017	Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)
Regulation 46	Addition of new regulations 2C(1)(a) and 2C(2).

**Question 1:** Do you have any comments on, or concerns with, BEIS's approach to incorporating the definition of EIA (Article 1(2)(g)) into the existing regulatory regimes and our proposals for the transposition of Article 1(3)?



## Coordinated procedures - Article 2(3)

### Article 2(3)

*In the case of projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and from Council Directive 92/43/EEC and/or Directive 2009/147/EC of the European Parliament and the Council, Member States shall, where appropriate, ensure that coordinated and/or joint procedures fulfilling the requirements of that Union legislation are provided for.*

*In the case of projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and Union legislation other than the Directives listed in the first subparagraph, Member States may provide for coordinated and/or joint procedures.*

*Under the coordinated procedure referred to in the first and second subparagraphs, Member States shall endeavour to coordinate the various individual assessments of the environmental impact of a particular project, required by the relevant Union legislation, by designating an authority for this purpose, without prejudice to any provisions to the contrary contained in other relevant Union legislation.*

*Under the joint procedure referred to in the first and second subparagraphs, Member States shall endeavour to provide for a single assessment of the environmental impact of a particular project required by the relevant Union legislation, without prejudice to any provisions to the contrary contained in other relevant Union legislation.*

27. In the case of projects for which there is an obligation to carry out an assessment under the EIA Directive and also under the Habitats<sup>6</sup> and/or Wild Birds Directives<sup>7</sup>, the EIA Directive requires that either a **coordinated procedure** or a **joint procedure** should be used. The **coordinated** procedure is undertaken by designating a lead authority to coordinate the individual assessments, whereas the **joint** procedure requires a single assessment.
28. We feel that coordinated procedure offer the greatest flexibility for project developers around the phasing and timing of EIA and Habitats Regulations

<sup>6</sup> Council Directive 92/43/EEC of 21st May 1992 on the conservation of natural habitats and of wild fauna and flora

<sup>7</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30th November 2009 on the conservation of wild birds



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Assessments (HRAs). This also reflects existing practice. A joint procedure would require the information to inform both assessments to be dealt with in a single assessment.

29. Currently, consents for projects under the existing Production and Pipe-lines (EIA) Regulations are granted only after consideration by various Statutory Advisors / environmental authorities / consultation bodies and pursuant to assessments undertaken in accordance with other EU legislation (e.g. the Industrial Emissions Directive). It is therefore, our intention to continue applying the coordinated procedure which will be formally transposed through the OPP (EIA) Regulations 2017 as highlighted in the tables below. It is our view that the proposed implementation of Article 2(3) should not result in any extra burdens / costs for the offshore hydrocarbon and onshore pipe-line sector.

**Transposition Tables**

**Offshore Hydrocarbons Sector**

<b>Provisions in PART 1 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)</b>
<b>Regulation 8(a) &amp; (g)</b>	Addition of new regulations 5(1A) and 5(11A).

**Onshore Pipe-lines Sector**

<b>Provisions in PART 2 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)</b>
<b>Regulation 27(d) &amp; (e)</b>	Addition of new regulations 3(5A) and 3(7).

<b>Provisions in PART 3 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)</b>
<b>Regulation 47(a) &amp; (j)</b>	Addition of new regulations 3(1A) and 3(7).

*See related questions under Article 2(5) on page 27.*





## Exemptions: Public Consultation - Articles 2(4) & 2(5)

### Article 2(4)

Without prejudice to Article 7, Member States may, in exceptional cases, exempt a specific project from the provisions laid down in this Directive, where the application of those provisions would result in adversely affecting the purpose of the project, provided the objectives of this Directive are met.

In that event, the Member States shall:

- (a) consider whether another form of assessment would be appropriate;
- (b) make available to the public concerned the information obtained under other forms of assessment referred to in point (a), the information relating to the decision granting exemption and the reasons for granting it;
- (c) inform the Commission, prior to granting consent, of the reasons justifying the exemption granted, and provide it with the information made available, where applicable, to their own nationals.

30. Article 2(4) would be largely met by the existing exemption provisions in the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended). However, the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended) and the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended) currently make no such provision. Accordingly, the OPP (EIA) Regulations will fully transpose the obligations of this Article as detailed in the tables below. In BEIS's opinion, the implementation of Article 2(4) should not entail any extra burdens / costs for the offshore hydrocarbon and onshore pipe-line sector.

### Transposition Tables

#### Offshore Hydrocarbons Sector

Provisions in PART 1 of the OPP (EIA) Regulations 2017	Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)
Regulation 18	Amendments to regulations 13(1)(b) and 3(2) to 3(5).



### Onshore Pipe-lines Sector

<b>Provisions in PART 2 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)</b>
<b>Regulation 28</b>	Addition of new regulations 3A(1)(c) and 3(2) to 3(5).

<b>Provisions in PART 3 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)</b>
<b>Regulation 46</b>	Addition of new regulations 2C(1)(c) and 2(2) to 2(5).

*See related questions under Article 2(5) on page 27.*

#### Article 2(5)

*Without prejudice to Article 7, in cases where a project is adopted by a specific act of national legislation, Member States may exempt that project from the provisions relating to public consultation laid down in this Directive, provided the objectives of this Directive are met.*

*Member States shall inform the Commission of any application of the exemption referred to in the first subparagraph every two years from 16 May 2017.*

31. Article 2(5) has no relevance to offshore hydrocarbon-related projects so no changes are required to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended). The Article may, however, have relevance to onshore pipe-line projects and consequently it will be transposed by the OPP (EIA) Regulations 2017 as indicated in the tables below.

#### Transposition Tables

##### Onshore Pipe-lines Sector

<b>Provisions in PART 2 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)</b>
<b>Regulation 28</b>	See new regulation 3A(1)(b).

<b>Provisions in PART 3 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)</b>
<b>Regulation 46</b>	See new regulation 2C(1)(b).



**Question 2: Do you have any comments on, or concerns with, BEIS's proposals pertaining to the transposition of Articles 2(3); 2(4) and 2(5)?**

**Question 3: Do you agree with BEIS's view that the transposition of Articles 2(3); 2(4) and 2(5) should not result in any extra burdens / costs for the onshore pipelines sector?**

**If you disagree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.**



## The Assessment Process: Assessment Scope - Articles 3(1) & 3(2)

### **Article 3(1)**

*The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case, the direct and indirect significant effects of a project on the following factors:*

*(a) population and human health;*

*(b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;*

*(c) land, soil, water, air and climate;*

*(d) material assets, cultural heritage and the landscape;*

*(e) the interaction between the factors referred to in points (a) to (d).*

### **Article 3(2)**

*The effects referred to in paragraph 1 on the factors set out therein shall include the expected effects deriving from ‘the vulnerability of the project to risks of major accidents and/or disasters that are relevant to the project concerned’.*

32. Article 3(1) sets out the broad requirements of the EIA process and the environmental factors to be considered, as appropriate, in the assessment and the interaction between those factors. It also clarifies that the EIA should only be assessing **significant** effects of the project on the environment.
33. The Article also amends some of the terminology used. For example, the term “human beings” has been replaced by “population and human health” and “flora and fauna” with the term “biodiversity”.
34. Article 3(2) also introduces a new requirement to consider the expected effects deriving from the vulnerability of the project to risks of major accidents and/or disasters that are relevant to the project concerned.
35. Under the existing Production and Pipe-lines (EIA) Regulations, applications for consent from project developers are already required to address the potential impacts of planned developments on most of the environmental factors listed in Article 3(1) and the elements in Article 3(2) concerning the vulnerability of developments to the risk of major accidents (e.g. those that could realistically



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occur during operational activities). To effect proper transposition, the requirements of these Articles will be included as legislative amendments in the OPP (EIA) Regulations 2017 as indicated in the tables below. It is probable that some of the factors to be assessed (e.g. effects on populations and human health and the vulnerability of projects to major disasters) could result in extra burdens / costs for the offshore hydrocarbon and onshore pipe-lines sectors. To assist project developers, BEIS will update its regulatory guidance in order to provide clear advice on the sort of information / level of detail that should ideally be covered in future submissions.

**Transposition Tables**

**Offshore Hydrocarbons Sector**

<b>Provisions in PART 1 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)</b>
<b>Regulations 6 &amp; 21 and Schedule 2</b>	Addition of new regulations 3A(2) and 3B(2)(a) plus updated Schedule 2 (paragraph 8).

**Onshore Pipe-lines Sector**

<b>Provisions in PART 2 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)</b>
<b>Regulations 26 &amp; 39 and Schedule 3</b>	Addition of new regulations 2A(2) and 2B(2)(a) plus updated Schedule 1 (paragraph 8).

<b>Provisions in PART 3 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)</b>
<b>Regulations 45 &amp; 55 and Schedule 5</b>	Addition of new regulations 2A(2) and 2B(2)(a) plus updated Schedule 1 (paragraph 8).

**Question 4: Do you have any comments on, or concerns with, BEIS’s proposals pertaining to the transposition of Articles 3(1) and 3(2)?**

**Question 5: Do you agree with BEIS’s view that the transposition of Articles 3(1) and 3(2) could result in extra burdens / costs for the offshore hydrocarbon and onshore pipe-line sectors?**

**If you agree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department’s Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.**



## Determining whether an environmental impact assessment (including the need to prepare an Environmental Statement) is required (screening) - Articles 4(3) to 4(6)

### Article 4(3)

*Where a case-by-case examination is carried out or thresholds or criteria are set for the purpose of paragraph 2, the relevant selection criteria set out in Annex III shall be taken into account. Member States may set thresholds or criteria to determine when projects need not undergo either the determination under paragraphs 4 and 5 or an environmental impact assessment, and/or thresholds or criteria to determine when projects shall in any case be made subject to an environmental impact assessment without undergoing a determination set out under paragraphs 4 and 5.*

36. Article 4(3) of the 2014 Directive requires the relevant selection criteria in the revised Annex III to be taken into account where Annex II projects are assessed on either a case-by-case basis or where thresholds or criteria have been set. This Article would be effectively met by the provisions in the existing Production and Pipe-lines (EIA) Regulations. Nonetheless, to effect appropriate transposition, the OPP (EIA) Regulations 2017 will include some modifications to the extant Regulations to reflect the revised text in Article 4(3) as described in the tables below. However, in our view, the implementation of Article 4(3) should not result in any extra burdens / costs for the offshore hydrocarbon and onshore pipe-line sectors

### Transposition Tables

#### Offshore Hydrocarbons Sector

<b>Provisions in PART 1 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)</b>
<b>Regulation 10(b)</b>	New regulation 6(1B) to allow the Secretary of State to direct that an Environmental Statement should be prepared without having to apply the Annex III criteria.
<b>Regulation 20 and Schedule 1</b>	Updated Schedule 1 to implement the revised Annex III criteria.



### Onshore Pipe-lines Sector

<b>Provisions in PART 2 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)</b>
<b>Regulation 27(b)</b>	New regulation 3(4A) - to allow the Secretary of State to direct that an Environmental Statement should be prepared without having to apply the Annex III criteria.
<b>Regulation 31(a)</b>	Consequential minor change to regulation 8 (making the determination public).
<b>Regulation 40 and Schedule 4</b>	Updated Schedule 2 to implement the revised Annex III criteria.

<b>Provisions in PART 3 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)</b>
<b>Regulation 48(a)</b>	New regulation 4(1A) - to allow the Secretary of State to direct that an Environmental Statement should be prepared without having to apply the Annex III criteria.
<b>Regulation 56 and Schedule 6</b>	Updated Schedule 2 to implement the revised Annex III criteria.

*See related questions under Article 4(6) on page 36.*

#### **Article 4(4)**

*Where Member States decide to require a determination for projects listed in Annex II, the developer shall provide information on the characteristics of the project and its likely significant effects on the environment. The detailed list of information to be provided is specified in Annex IIA. The developer shall take into account, where relevant, the available results of other relevant assessments of the effects on the environment carried out pursuant to Union legislation other than this Directive.*

*The developer may also provide a description of any features of the project and/or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.*

37. The 2014 Directive has sought to standardise the type of information to be provided by a developer when asking the competent authority to screen a proposal. The information to be provided is set out in a new Annex IIA to the EIA Directive. The intention is that this will help focus environmental impact assessment on those cases where there really is a likelihood of significant effects. It describes the information to be provided by a developer taking into account the available results of other relevant assessments.



38. The Article clarifies that a project developer may provide a description of any features and mitigation measures of the project envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.
39. Article 4(4) is new and will be transposed by the OPP (EIA) Regulations 2017 as detailed in the tables below. BEIS considers that while the provisions of Article 4(4) will result in some relatively small additional burdens / costs for the offshore hydrocarbon and onshore pipe-line sectors due to the extra information which project developers would need to cover when preparing applications relating to Annex II projects, there is also the possibility of cost reductions eventually being accrued as the identification of any envisaged measures to mitigate potential significant adverse environmental impacts could negate the requirement to carry out the full EIA process (i.e. the need to prepare an Environmental Statement).

### Transposition Tables

#### Offshore Hydrocarbons Sector

<b>Provisions in PART 1 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)</b>
<b>Regulation 5(a)(ii)</b>	Inclusion in regulation 3 of a new definition of “appropriate particulars” which also incorporates (in paragraphs (a) and (b)): <ul style="list-style-type: none"> <li>- the new Annex IIA criteria plus a requirement that project developers should take into account the results of other relevant environmental assessments carried out pursuant to other Union legislation when compiling the information to be provided; and</li> <li>- the provisions in the last paragraph of Article 4(3) whereby project developers may include in the information to be provided a description of any features of a project and / or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.</li> </ul>

#### Onshore Pipe-lines Sector

<b>Provisions in PART 2 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)</b>
<b>Regulation 25(a)(ii)</b>	Inclusion in regulation 2 of a new definition of “appropriate particulars” (in relation to a request for an environmental determination or a request under regulation 7(1) (pre-application opinion on content of environmental statement)) which also incorporates (in paragraphs (a) and (b)): <ul style="list-style-type: none"> <li>- the new Annex IIA criteria plus a requirement that</li> </ul>





	<p>project developers should take into account the results of other relevant environmental assessments carried out pursuant to other Union legislation when compiling the information to be provided; and</p> <ul style="list-style-type: none"> <li>- the provisions in the last paragraph of Article 4(3) whereby project developers may include in the information to be provided a description of any features of a project and / or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.</li> </ul>
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<p><b>Provisions in PART 3 of the OPP (EIA) Regulations 2017</b></p>	<p><b>Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)</b></p>
<p><b>Regulation 44(b)(i)</b></p>	<p>Inclusion in regulation 2 of a new definition of “appropriate particulars” which also incorporates (in paragraphs (a) and (b)):</p> <ul style="list-style-type: none"> <li>- the new Annex IIA criteria plus a requirement that project developers should take into account the results of other relevant environmental assessments carried out pursuant to other Union legislation when compiling the information to be provided; and</li> <li>- the provisions in the last paragraph of Article 4(3) whereby project developers may include in the information to be provided a description of any features of a project and / or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.</li> </ul>

**Question 6: Do you have any comments on, or concerns with, BEIS’s proposals relating to the transposition of Article 4(4)?**

**Question 7: Do you agree with BEIS’s view that the transposition of Article 4(4) could result in a combination of relatively small additional burdens / costs plus some eventual cost reductions for the offshore hydrocarbon and onshore pipe-line sectors?**

**If you agree, please provide estimates in respect to your particular operational activities of: (a) the likely increased burdens / costs; and (b) any potential cost reductions that might eventually be accrued. This data will further inform the updating of the Department’s Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.**

**Article 4(5)**

*The competent authority shall make its determination, on the basis of the information provided by the developer in accordance with paragraph 4 taking into account, where relevant, the results of preliminary verifications or assessments of*



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*the effects on the environment carried out pursuant to Union legislation other than this Directive. The determination shall be made available to the public and:*

*(a) where it is decided that an environmental impact assessment is required, state the main reasons for requiring such assessment with reference to the relevant criteria listed in Annex III; or*

*(b) where it is decided that an environmental impact assessment is not required, state the main reasons for not requiring such assessment with reference to the relevant criteria listed in Annex III, and, where proposed by the developer, state any features of the project and/or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.*

40. The main addition here is that the screening decision must be based on information provided by a project developer and that the competent authority must give reasons justifying its decision. The screening decision must also be made available to the public. Furthermore, when considering the information provided by the project developer, the competent authority, as now, must take into account the criteria listed in Annex III of the EIA Directive. The criteria in Annex III have also been amended, largely to provide more clarity about the various issues to be considered.
41. There are already provisions in the existing Production and Pipe-lines (EIA) Regulations to assess applications on a case-by-case basis and to subsequently advise developers whether the full EIA process should apply (i.e. if an Environment Statement is required). Information about applications is also made available via either the GOV-UK or Planning Inspectorate (PINS) websites, and notices are also published on the abovementioned websites relating to decisions on applications - for example, the publication of notices confirming that no Environmental Statement needs to be prepared in relation to a particular project. Nevertheless, to effect proper transposition, the OPP (EIA) Regulations 2017 will include some modifications to the extant Regulations to fully reflect the requirements of Article 4(5) as outlined in the tables below. In BEIS's opinion, the implementation of this Article should not entail any extra burdens / costs for the offshore hydrocarbon and onshore pipe-line sectors.

**Transposition Tables**

**Offshore Hydrocarbons Sector**

<b>Provisions in PART 1 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)</b>
<b>Regulations 8(e) and 9</b>	Replacing regulation 5(8) with regulation 5A(7) to implement the part of Article 4(5) requiring the determination to be made public. Replacing regulation 5(8A) with 5A(8) to transpose items (a) & (b) in Article 4(5).



<b>Regulation 10(b) &amp; (d)(ii)</b>	Addition of new regulation 6(1A) to implement the final element of item (b) in Article 4(5). Amendment to regulation 6(3) so as to implement the first part of Article 4(5).
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### Onshore Pipe-lines Sector

<b>Provisions in PART 2 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)</b>
<b>Regulations 29(a) &amp; (c) and 31(b)</b>	Amendment to regulation 6(2)(a) to implement the first part of Article 4(5). Amendments to regulation 6(7) to transpose items (a) & (b) in Article 4(5). Amendment to regulation 8 to implement the requirement in Article 4(5) to make the determination public.

<b>Provisions in PART 3 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)</b>
<b>Regulation 48(b) &amp; (d)</b>	Amendment to regulation 4(2) to implement the first part of Article 4(5). Amendments to regulation 4(7) and a new regulation 4(8) to transpose items (a) and (b) in Article 4(5).

*See related question under Article 4(6) on page 36.*

#### **Article 4(6)**

*Member States shall ensure that the competent authority makes its determination as soon as possible and within a period of time not exceeding 90 days from the date on which the developer has submitted all the information required pursuant to paragraph 4.*

*In exceptional cases, for instance relating to the nature, complexity, location or size of the project, the competent authority may extend that deadline to make its determination; in that event, the competent authority shall inform the developer in writing of the reasons justifying the extension and of the date when its determination is expected.*

42. This Article sets a maximum timeframe for the competent authority to provide a screening decision. This decision, known as the determination, must be made as soon as possible and within a period not exceeding 90 days from the date on which the developer has submitted all the information required. This period can be extended in exceptional circumstances.



43. The main aspects of Article 4(6) are adequately covered under the existing Production and Pipe-lines (EIA) Regulations and, in the majority of cases, BEIS would aim to provide decisions as promptly as possible so as to minimise delay (and related costs) for project developers. However, to effect correct transposition, the provisions of this Article will be included in the OPP (EIA) Regulations 2017 as indicated in the tables below. It is BEIS's opinion that the transposition of Article 4(6) should not result in any extra burdens / costs for the offshore hydrocarbon and onshore pipe-line sectors.

### Transposition Tables

#### Offshore Hydrocarbons Sector

Provisions in PART 1 of the OPP (EIA) Regulations 2017	Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)
Regulation 10(g)	Addition of new regulations 6(10A) and 6(10B).

#### Onshore Pipe-lines Sector

Provisions in PART 2 of the OPP (EIA) Regulations 2017	Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)
Regulation 29(b)	Amendment to regulation 6(6) and the addition of a new regulation 6(6A).

Provisions in PART 3 of the OPP (EIA) Regulations 2017	Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)
Regulation 48(c)	Addition of new regulations 4(6A) and 4(6B).

**Question 8: Do you have any comments on, or concerns with, BEIS's proposals regarding the transposition of Articles 4(3); 4(5) and 4(6)?**

**Question 9: Do you agree with BEIS's view that the transposition of Articles 4(3); 4(5) and 4(6) should not result in any extra burdens / costs for either the offshore hydrocarbon or onshore pipe-line sectors?**

**If you disagree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.**



## Information to be provided in an Environmental Statement - Article 5(1)

### **Article 5(1)**

*Where an environmental impact assessment is required the developer shall prepare and submit an environmental impact assessment report. The information to be provided by the developer shall include at least:*

- (a) a description of the project comprising information on the site, design, size and other relevant features of the project;*
- (b) a description of the likely significant effects of the project on the environment;*
- (c) a description of the features of the project and/or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;*
- (d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;*
- (e) a non-technical summary of the information referred to in points (a) to (d); and*
- (f) any additional information specified in Annex IV relevant to the specific characteristics of a particular project or type of project and to the environmental features likely to be affected.*

*Where an opinion is issued pursuant to paragraph 2, the environmental impact assessment report shall be based on that opinion, and include the information that may reasonably be required for reaching a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment.*

*The developer shall, with a view to avoiding duplication of assessments, take into account the available results of other relevant assessments under Union or national legislation, in preparing the environmental impact assessment report.*

44. This Article further clarifies the required content of an Environmental Statement. It sets out what should be included in an Environmental Statement including mitigation measures, a non-technical summary and reasonable alternatives



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which the project developer has considered. It also introduces a new provision requiring that where a scoping opinion is requested the Environmental Statement must be “based on” that opinion.

45. It is likely that most of the issues listed in the amended Annex IV of the EIA Directive will already be included in current Environmental Statements, where they are considered to be relevant to an assessment of the potential significant effects of a project. However, to ensure appropriate transposition, the new requirements will be included as regulatory amendments in the OPP (EIA) Regulations 2017 as described in the tables below. BEIS considers that while the provisions of Article 5(1) and Annex IV will result in some relatively small additional burdens / costs for the offshore hydrocarbon and onshore pipe-line sectors (i.e. where certain issues are not presently addressed in Environmental Statements), there is also the possibility of cost reductions eventually being accrued on the basis that future Environmental Statements will only need to focus solely on the potential significant adverse environmental effects of proposed projects.

**Transposition Tables**

**Offshore Hydrocarbons Sector**

<b>Provisions in PART 1 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)</b>
<b>Regulation 6</b>	Addition of new regulations 3B(1) and 3B(2)(b) (this also implements the part of Article 5(1) which relates to opinions received under Article 5(2) (regulation 7) and the final part of regulation Article 5(1) (i.e. an Environmental Statement taking into account any available results of other relevant environmental assessments under EU or UK legislation).
<b>Regulation 21 and Schedule 2</b>	Updated Schedule 2 to implement the revised Annex IV criteria.

**Onshore Pipe-lines Sector**

<b>Provisions in PART 2 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)</b>
<b>Regulation 26</b>	Addition of new regulations 2B(1) and 2B(2)(b) (this also implements the part of Article 5(1) which relates to opinions received under Article 5(2) (regulation 7) and the final part of Article 5(1) (i.e. an Environmental Statement taking into account any available results of other relevant environmental assessments under EU or UK legislation).
<b>Regulation 39 and Schedule 3</b>	Updated Schedule 1 to implement the revised Annex IV.



<b>Provisions in PART 3 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)</b>
<b>Regulation 45</b>	Addition of new regulations 2B(1) and 2B(2)(b) (this also implements the part of Article 5(1) which relates to opinions received under Article 5(2) (regulation 5) and the final part of Article 5(1) (i.e. an Environmental Statement taking into account any available results of other relevant environmental assessments under EU or UK legislation).
<b>Regulation 55 and Schedule 5</b>	Updated Schedule 1 to implement the revised Annex IV.

**Question 10: Do you have any comments on, or concerns with, BEIS's proposals pertaining to the transposition of Article 5(1)?**

**Question 11: Do you agree with BEIS's view that the transposition of Article 5(1) could result in a combination of relatively low additional burdens / costs plus some eventual cost reductions for the offshore hydrocarbon and onshore pipe-line sectors?**

**If you agree, please provide estimates in respect to your particular operational activities of: (a) the likely increased burdens / costs; and (b) any potential cost reductions that might eventually be accrued. This data will further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.**



## Determining the scope and level of detail of the assessment (scoping) - Article 5(2)

### Article 5(2)

*Where requested by the developer, the competent authority, taking into account the information provided by the developer in particular on the specific characteristics of the project, including its location and technical capacity, and its likely impact on the environment, shall issue an opinion on the scope and level of detail of the information to be included by the developer in the environmental impact assessment report in accordance with paragraph 1 of this Article. The competent authority shall consult the authorities referred to in Article 6(1) before it gives its opinion.*

*Member States may also require the competent authorities to give an opinion as referred to in the first subparagraph, irrespective of whether the developer so requests.*

46. The EIA Directive retains the provision for a project developer to seek a scoping opinion if they choose. It now provides that the competent authority must issue an opinion on the scope and level of detail of the information required in an Environmental Statement, taking into account the information provided by the project developer on the specific characteristics of the project and its likely impact on the environment. It also introduces the requirement that where a scoping opinion has been requested, the Environmental Statement should be “based on” that opinion.
47. The EIA Directive also provides that Member States can choose to make it mandatory that competent authorities have to give a scoping opinion irrespective of whether the developer so requests.
48. The obligations of Article 5(2) are already effectively met under the existing Production and Pipe-lines (EIA) Regulations. Nevertheless, to effect appropriate transposition, the relevant provisions in the OPP (EIA) Regulations 2017 have been tweaked as outlined in the tables below - although, we do not plan to incorporate a requirement for the relevant authority to give a scoping opinion irrespective of whether a project developer requests it or not. It is BEIS’s view that the transposition of Article 5(2) should not result in any extra burdens / costs for the offshore hydrocarbon and onshore pipe-line sectors.





### Transposition Tables

#### Offshore Hydrocarbons Sector

<b>Provisions in PART 1 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)</b>
<b>Regulation 11(a), (b) &amp; (c)</b>	Amendments to regulations 7(1) and 7(2) (also now includes a reference to environmental authorities with local or regional competence) plus a new regulation 7(2A).

#### Onshore Pipe-lines Sector

<b>Provisions in PART 2 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)</b>
<b>Regulation 30(a) &amp; (b)</b>	Amendments to regulations 7(1) and 7(2)(a). Note that regulation 7(2)(a)(iv) has now been omitted as it is an extra consideration that the Directive does not allow.

<b>Provisions in PART 3 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)</b>
<b>Regulation 49(a) &amp; (b)</b>	Amendments to regulations 5(1) and 5(2)(a). Note that regulation 5(2)(a)(iv) has now been omitted as it is an extra consideration that the Directive does not allow.

*See related question under Article 5(3) on page 43.*



## Competent experts - Article 5(3)

### **Article 5(3)**

*In order to ensure the completeness and quality of the environmental impact assessment report:*

*(a) the developer shall ensure that the environmental impact assessment report is prepared by competent experts;*

*(b) the competent authority shall ensure that it has, or has access as necessary to, sufficient expertise to examine the environmental impact assessment report; and*

*(c) where necessary, the competent authority shall seek from the developer supplementary information, in accordance with Annex IV, which is directly relevant to reaching the reasoned conclusion on the significant effects of the project on the environment.*

49. Whilst these requirements are new, we consider that in practice, Environmental Statements that are submitted (with EIA applications) by project developers in the offshore hydrocarbon and onshore pipe-line sectors will have been prepared by competent experts (either internal staff or external consultants) specialising in the relevant area. BEIS also currently seeks advice from relevant Statutory Nature Conservation Bodies and other relevant authorities where necessary before reaching any decisions. Furthermore, under the existing Production and Pipelines (EIA) Regulations, BEIS can request from project developers supplementary information / evidence in respect to Environmental Statements where this is considered necessary for the purposes of reaching a decision on whether to grant consent.
50. We therefore propose to transpose Article 5(3) through the OPP (EIA) Regulations 2017 as indicated in the tables below - but we do not define the term “competent” instead we use “appropriate expert knowledge” because it is likely to depend on the individual circumstance of each case. It is our expectation that the implementation of this Article should not entail any extra burdens / costs for the offshore hydrocarbon and onshore pipe-line sectors.



**Transposition Tables**

**Offshore Hydrocarbons Sector**

<b>Provisions in PART 1 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)</b>
<b>Regulations 6, 8(c), 14(a) and 15(c)</b>	Addition of new regulation 3B(3); amendments to regulations 5(4) and 11(6) plus a minor modification to regulation 10(2).

**Onshore Pipe-lines Sector**

<b>Provisions in PART 2 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)</b>
<b>Regulations 26, 33(a) and 36(a)(i)</b>	Addition of new regulation 2B(3) plus amendments to regulations 11(1) and 14(1)(b)(i).

<b>Provisions in PART 3 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)</b>
<b>Regulations 45, 47(b) and 51(a)</b>	Addition of new regulation 2B(3) plus amendments to regulations 3(2)(b)(i) and 8(1).

**Question 12: Do you have any comments on, or concerns with, BEIS's proposals appertaining to the transposition of Articles 5(2) and 5(3)?**

**Question 13: Do you agree with BEIS's view that the transposition of Articles 5(2) and 5(3) should not result in any extra burdens / costs for either the offshore hydrocarbon or onshore pipe-line sectors?**

**If you disagree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.**



## Consultation - Article 6(1)

### Article 6(1)

*Member States shall take the measures necessary to ensure that the authorities likely to be concerned by the project by reason of their specific environmental responsibilities or local and regional competences are given an opportunity to express their opinion on the information supplied by the developer and on the request for development consent, taking into account, where appropriate, the cases referred to in Article 8a(3). To that end, Member States shall designate the authorities to be consulted, either in general terms or on a case-by-case basis. The information gathered pursuant to Article 5 shall be forwarded to those authorities. Detailed arrangements for consultation shall be laid down by the Member States.*

51. This Article allows Member States to state which bodies shall be consulted, including local and regional authorities.
52. Article 6(1) would be substantially met by the existing Production and Pipe-lines (EIA) Regulations. In this context, no changes are required to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended) or the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended) as the definition of “consultation bodies” in both sets of Regulations covers both planning authorities and environmental bodies.
53. However, to effectively transpose the Directive’s obligations, the OPP (EIA) Regulations 2017 will include some modifications to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended) to reflect the revised text in Article 6(1) as highlighted in the table below. It is also BEIS’s opinion that the transposition of Article 6(1) should not result in any extra burdens / costs for the offshore hydrocarbons sector.

### Transposition Tables

#### Offshore Hydrocarbons Sector

<b>Provisions in PART 1 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)</b>
<b>Regulations 8(d)(iii), 11(b), 12(a) &amp; (b), 13(a), (b) &amp; (e),</b>	Amendments to regulations 5(5)(c)(i); 7(2)(a)(ii); 8(2)(b) & (c) and (3); 9(1) & (2) and (4); 10(2)(a); 12A(2)(a) and 17A(1)(n) so as to include “local / regional authority” in each reference to



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**14(a)(ii), 17(b) and  
19(b)**

“environmental authority”.

*See related questions under Article 6(7) on page 50.*



## Electronic communication - Articles 6(2) and 6(5)

### **Article 6(2)**

*In order to ensure the effective participation of the public concerned in the decision-making procedures, the public shall be informed electronically and by public notices or by other appropriate means of the following matters early in the environmental decision-making procedures referred to in Article 2(2) and, at the latest, as soon as information can reasonably be provided:*

- (a) the request for development consent;*
- (b) the fact that the project is subject to an environmental impact assessment procedure and, where relevant, the fact that Article 7 applies;*
- (c) details of the competent authorities responsible for taking the decision, those from which relevant information can be obtained, those to which comments or questions can be submitted, and details of the time schedule for transmitting comments or questions;*
- (d) the nature of possible decisions or, where there is one, the draft decision;*
- (e) an indication of the availability of the information gathered pursuant to Article 5;*
- (f) an indication of the times and places at which, and the means by which, the relevant information will be made available;*
- (g) details of the arrangements for public participation made pursuant to paragraph 5 of this Article.*

### **Article 6(5)**

*The detailed arrangements for informing the public, for example by bill posting within a certain radius or publication in local newspapers, and for consulting the public concerned, for example by written submissions or by way of a public inquiry, shall be determined by the Member States. Member States shall take the necessary measures to ensure that the relevant information is electronically accessible to the public, through at least a central portal or easily accessible points of access, at the appropriate administrative level.*



54. The 2014 Directive adds the requirement that the public should be informed about an application (Article 6(2)) and that information should be made available electronically through “at least a central portal or easily accessible points of access” (Article 6(5)). Publishing the information electronically will be mandatory for the first time and should make the process more transparent.
55. In practice, Environmental Statements submitted under the existing Production and Pipe-lines (EIA) Regulations are generally made available on project developers’ websites. There are also comprehensive ‘public participation’ provisions in the existing Regulations which require project developers in the offshore hydrocarbon and onshore pipe-line sectors to publish information concerning the submission of any applications supported by Environmental Statements.
56. Notwithstanding the above factors, it is our intention to include some modifications in the OPP (EIA) Regulations 2017 as outlined in the tables below to secure appropriate transposition of the revised text in Articles 6(2) and 6(5). However, it is BEIS’s view that the implementation of those Articles should not result in any extra burdens / costs for the offshore hydrocarbon and onshore pipe-line sectors.

### Transposition Tables

#### Offshore Hydrocarbons Sector

<b>Provisions in PART 1 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)</b>
<b>Regulations 8(e) and 9, 8(f), 13(c), 15(g), 16(b) and 18</b>	Replacing regulation 5(8) with 5A(7) plus amendments to regulations 5(10)(b); 9(2A)(b); 11(9); 12(2)(c) and 13(5) - all of which standardise the requirement that information is to be made available on a public website.
<b>Regulations 10(b) and 14(a)(iv)</b>	Addition of new regulations 6(1C) and 10(2)(e) - which standardise the requirement that information is to be made available on a public website.

#### Onshore Pipe-lines Sector

<b>Provisions in PART 2 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)</b>
<b>Regulations 32(a) &amp; (b), 33(b) &amp; (c) and 34(a) &amp; (b)</b>	Amendments to regulations 10(4) & 10(7); 11(5) & 11(7) and 11A(4) & 11A(7) - all of which standardise the requirement that information is to be made available on a public website.



<b>Provisions in PART 3 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)</b>
<b>Regulations 50(a)(ii) &amp; (b), 51(b) &amp; (c) and 52(a) &amp; (b)</b>	Amendments to regulations 7(4)(a) & 7(6); 8(5) & 8(7) and 8A(4) & 8A(7) - all of which standardise the requirement that information is to be made available on a public website.

*See related questions under Article 6(7) on page 50.*





## Consultation timeframes - Article 6(7)

### Article 6(7)

*The time-frames for consulting the public concerned on the environmental impact assessment report referred to in Article 5(1) shall not be shorter than 30 days.*

57. Article 6(7) sets a new minimum timeframe for public consultations on Environmental Statements. This should be no shorter than 30 days. Consequently, the OPP (EIA) Regulations 2017 will amend the consultation timeframes in the existing Production and Pipe-lines (EIA) Regulations to 30 days as described in the tables below. We are of the opinion that the implementation of this Article should not entail any extra burdens / costs for the offshore hydrocarbon and onshore pipe-line sectors.

### Transposition Tables

#### Offshore Hydrocarbons Sector

Provisions in PART 1 of the OPP (EIA) Regulations 2017	Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)
Regulations 4 and 17(a)	Changing all references to “4 weeks” to “30 days” through the Regulations (therefore under regulations 9(2)(c) and 5(4) or 11(6), the public has 30 days in which to inspect and make representations) and also amending regulation 12A.

#### Onshore Pipe-lines Sector

Provisions in PART 2 of the OPP (EIA) Regulations 2017	Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)
Regulation 24	Changing all references to “four weeks”; “4 weeks” or “28 days” to “30 days” through the Regulations (therefore under regulations 10(3)(c) & (d) and 10(4); 14(1) and 14(2)(c)(ii), the public has 30 days in which to inspect and make representations).

Provisions in PART 3 of the OPP (EIA) Regulations 2017	Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)
Regulation 43	Changing all references to “28 days” or “four weeks” to “30 days” through the Regulations (therefore under regulations 3(2)(a); 3(3)(c)(ii) and 7(3), the public has 30 days in which to



inspect and make representations).

**Question 14:** Do you have any comments on, or concerns with, BEIS's proposals regarding the transposition of Articles 6(1); 6(2) & 6(5) and 6(7)?

**Question 15:** Do you agree with BEIS's view that the transposition of Articles 6(1); 6(2) & 6(5) and 6(7) should not result in any extra burdens / costs for either the offshore hydrocarbon or onshore pipe-line sectors?

If you disagree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.



## Projects likely to have significant effects on the environment in another Member State - Article 7(5)

### Article 7(5)

*The detailed arrangements for implementing paragraphs 1 to 4 of this Article, including the establishment of time-frames for consultations, shall be determined by the Member States concerned, on the basis of the arrangements and time-frames referred to in Article 6(5) to (7), and shall be such as to enable the public concerned in the territory of the affected Member State to participate effectively in the environmental decision-making procedures referred to in Article 2(2) for the project.*

58. Article 7(5) sets the public consultation requirements for projects affecting other Member States. The revisions to this Article will be transposed by the OPP (EIA) Regulations 2017 as outlined detailed in the tables below. We are of the view that the implementation of Article 7(5) should not entail any extra burdens / costs for the offshore hydrocarbon and onshore pipe-line sectors.

### Transposition Tables

#### Offshore Hydrocarbons Sector

<b>Provisions in PART 1 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)</b>
<b>Regulations 8(d), 15(d) and 17(a)</b>	Amendments to regulations 5(5)(d); 11(7)(d) and 12A(1)(b).

#### Onshore Pipe-lines Sector

<b>Provisions in PART 2 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)</b>
<b>Regulation 35(b) and 36(c)(ii)</b>	Amendments to regulations 13(2)(a)(iii) and 14(2)(c)(ii).



<b>Provisions in PART 3 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)</b>
<b>Regulations 47(d), 50(a) and 53</b>	Amendments to regulations 3(3)(c)(ii); 7(4)(a) and 10(2)(a)(iii).

**Question 16: Do you have any comments on, or concerns with, BEIS's proposals regarding the transposition of Article 7(5)?**

**Question 17: Do you agree with BEIS's view that the transposition of Article 7(5) should not result in any extra burdens / costs for either the offshore hydrocarbon or onshore pipe-line sectors?**

**If you disagree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.**



## Taking into account in the consenting procedures the results of consultations and information gathered - Article 8

### Article 8

*The results of consultations and the information gathered pursuant to Articles 5 to 7 shall be duly taken into account in the development consent procedure.*

59. Article 8 would be substantially met by the existing Production and Pipe-lines (EIA) Regulations. In this regard, no changes are required to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended).
60. However, to effectively transpose this Article, the OPP (EIA) Regulations 2017 will include some modifications to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended) and the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended) to reflect the revised text as highlighted in the tables below. It is also BEIS's opinion that the transposition of Article 8 should not result in any extra burdens / costs for the offshore hydrocarbon and onshore pipe-line sectors.

### Transposition Tables

#### Offshore Hydrocarbons Sector

Provisions in PART 1 of the OPP (EIA) Regulations 2017	Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)
Regulations 8(c), 9 15(c) & (e)	Amendments to regulations 5(4) and 11(6) plus the addition of new regulations 5A(1)(a) and 11(7A)(a).

#### Onshore Pipe-lines Sector

Provisions in PART 3 of the OPP (EIA) Regulations 2017	Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)
Regulation 47(b)	Amendments to regulation 3(2)(a) & (b).

**Question 18:** Do you have any comments on, or concerns with, BEIS's proposals regarding the transposition of Article 8?



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**Question 19:** Do you agree with BEIS's view that the transposition of Article 8 should not result in any extra burdens / costs for either the offshore hydrocarbon or onshore pipe-line sectors?

If you disagree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.



## Decisions - Articles 8a(1) & 8a(2)

### Article 8a(1)

*The decision to grant development consent shall incorporate at least the following information:*

- (a) the reasoned conclusion referred to in Article 1(2)(g)(iv);*
- (b) any environmental conditions attached to the decision, a description of any features of the project and/or measures envisaged to avoid, prevent or reduce and, if possible, offset significant adverse effects on the environment as well as, where appropriate, monitoring measures.*

61. Article 8a(1) sets out requirements for information to be included in a decision to grant development consent. The first part reflects the obligation in Article 1(2)(g)(v) that the competent authority's reasoned conclusion must be integrated into any decision.
62. Article 8a(1)(b) requires that in addition to any environmental conditions attached to the decision, competent authorities must also ensure that any mitigation measures and, where appropriate, monitoring measures (see next section) are identified in the consent.
63. The obligations in Article 8a(1) would be largely met by the existing Production and Pipe-lines (EIA) Regulations, but these obligations have been brought together in the transposition of the new Article as outlined in the tables below. It is our view that the implementation of Article 8a(1) should not result in any extra costs / burdens for the offshore hydrocarbon and onshore pipe-line sectors. However, the requirements of this Article will necessitate some amendment of procedures for BEIS and the Oil & Gas Authority (OGA) in relation to the granting of consents for offshore hydrocarbon-related developments.

### Transposition Tables

#### Offshore Hydrocarbons Sector

<b>Provisions in PART 1 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)</b>
<b>Regulations 9 and 15(e)</b>	Addition of new regulations 5A(1)(b) & (c); 5A(2); 11(7A)(b) & (c) and 11(7B).



### Onshore Pipe-lines Sector

<b>Provisions in PART 2 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)</b>
<b>Regulations 36(a)(iii) &amp; (b)</b>	Addition of new regulations 14(1)(d) and 14(1A).

<b>Provisions in PART 3 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)</b>
<b>Regulation 47(b) &amp; (c)</b>	Addition of new regulations 3(2)(c) and 3(2A).

#### Article 8a(2)

*The decision to refuse development consent shall state the main reasons for the refusal.*

64. Article 8a(2) is based on European Court of Justice case law (C-87/02 and C-75/08) and requires that where development consent has been refused the competent authority must state the reasons for the refusal. This already represents common practice under the existing Production and Pipe-lines (EIA) Regulations. Nonetheless, as the requirement is new it will be appropriately transposed by the OPP (EIA) Regulations 2017 as detailed in the tables below. It is our opinion that the implementation of Article 8a(2) should not entail any extra burdens / costs for the offshore hydrocarbon and onshore pipe-line sectors.

### Transposition Tables

#### Offshore Hydrocarbons Sector

<b>Provisions in PART 1 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)</b>
<b>Regulations 9 and 15(e)</b>	Addition of new regulations 5A(3) and 11(7C)

#### Onshore Pipe-lines Sector

<b>Provisions in PART 2 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)</b>
<b>Regulation 36(b)</b>	Addition of new regulation 14(1B).





<b>Provisions in PART 3 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)</b>
<b>Regulation 47(c)</b>	Addition of new regulation 3(2B).

*See related questions under Article 8a(6) on page 62.*



## Monitoring of significant environmental effects - Article 8a(4)

### **Article 8a(4)**

*In accordance with the requirements referred to in paragraph 1(b), Member States shall ensure that the features of the project and/or measures envisaged to avoid, prevent or reduce and, if possible, offset significant adverse effects on the environment are implemented by the developer, and shall determine the procedures regarding the monitoring of significant adverse effects on the environment.*

*The type of parameters to be monitored and the duration of the monitoring shall be proportionate to the nature, location and size of the project and the significance of its effects on the environment.*

*Existing monitoring arrangements resulting from Union legislation other than this Directive and from national legislation may be used if appropriate, with a view to avoiding duplication of monitoring.*

65. The decision to grant development consent should also now include, where appropriate, monitoring measures. The type of parameters to be monitored and the duration of the monitoring should be proportionate to the nature, location and size of the project and the significance of its effects on the environment.
66. It is for Member State competent authorities to determine the procedures regarding the monitoring of significant adverse environmental effects. Existing monitoring arrangements (e.g. monitoring conditions attached to permits issued under environmental legislation for specific operations) may be used if appropriate, with a view to avoiding duplication.
67. The requirements of Article 8a(4) are new and will therefore be appropriately transposed by the OPP (EIA) Regulations 2017 as outlined in the tables below (the implementation of this Article includes suitable arrangements pertaining to the separate consenting functions of BEIS and the OGA in respect to offshore hydrocarbon-related developments). Although project developers in the offshore hydrocarbon and onshore pipe-lines sector are already obliged to meet commitments detailed in their impact assessments, and conditions can be included in subsequent environmental approvals, the inclusion of conditions such as monitoring measures in development consents are not presently a standard feature of the UK regime.



68. It is, at this stage, difficult to determine with any real certainty the extent to which monitoring conditions would be attached to future consents for onshore pipe-line developments given that only a few applications for Annex I type projects are submitted over a ten year timescale and it is, in any event, highly likely that major pipe-lines are monitored on a regular basis to maintain operational performance and environmental integrity. As far as the offshore hydrocarbon sector is concerned, whilst it is not anticipated that monitoring measures would be routinely included in all EIA approvals, it should be assumed that there could be extra burdens / costs for the offshore sector where monitoring programmes form part of the consent conditions for particular developments. These could, for instance, comprise monitoring at a specified frequency for new field developments and 'localised' monitoring surveys for drilling operations in sensitive areas.

### Transposition Tables

#### **Offshore Hydrocarbons Sector**

<b>Provisions in PART 1 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)</b>
<b>Regulations 5, 9 and 15(e)</b>	Inclusion of definition of "monitoring condition" in regulation 3 plus addition of new regulations 5A(2) & 5A(5) and 11(7B) & 11(7E).

#### **Onshore Pipe-lines Sector**

<b>Provisions in PART 2 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)</b>
<b>Regulation 36(b)</b>	Addition of new regulations 14(1A) and 14(1D).

<b>Provisions in PART 3 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)</b>
<b>Regulation 47(c)</b>	Addition of new regulations 3(2A) and 3(2D).

**Question 20:** Do you have any comments on, or concerns with, BEIS's proposals regarding the transposition of Article 8a(4)?

**Question 21:** Do you agree with BEIS's view that the transposition of Article 8(a)(4) could result in extra burdens / costs for the offshore hydrocarbons sector? If you agree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.



## Decisions in a reasonable time period - Article 8a(5)

### Article 8a(5)

*Member States shall ensure that the competent authority takes any of the decisions referred to in paragraphs 1 to 3 within a reasonable period of time.*

69. This Article concerns the time taken by the competent authority to make decisions, to ensure that they are taken within a reasonable period of time.
70. Even though consenting decisions under the existing Production and Pipe-lines (EIA) Regulations are taken within reasonable timeframes, the requirements are new and Article 8a(5) will be transposed via the OPP (EIA) Regulations 2017 as indicated in the tables below. However, in BEIS's view, the implementation of the Article should not result in any extra burdens / costs for BEIS or the offshore hydrocarbon and onshore pipe-line sectors.

### Transposition Tables

#### Offshore Hydrocarbons Sector

Provisions in PART 1 of the OPP (EIA) Regulations 2017	Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)
Regulations 9 and 15(e)	Addition of new regulations 5A(6) and 11(7F).

#### Onshore Pipe-lines Sector

Provisions in PART 2 of the OPP (EIA) Regulations 2017	Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)
Regulation 36(b)	Addition of new regulation 14(1E).

Provisions in PART 3 of the OPP (EIA) Regulations 2017	Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)
Regulation 47(c)	Addition of new regulation 3(2E).

*See related questions under Article 8a(6) on page 62.*



## Up-to-date reasoned conclusion - Article 8a(6)

### Article 8a(6)

*The competent authority shall be satisfied that the reasoned conclusion referred to in Article 1(2)(g)(iv), or any of the decisions referred to in paragraph 3 of this Article, is still up to date when taking a decision to grant development consent. To that effect, Member States may set time-frames for the validity of the reasoned conclusion referred to in Article 1(2)(g)(iv) or any of the decisions referred to in paragraph 3 of this Article.*

71. This Article concerns timeframes for the validity of a competent authority's reasoned conclusion as part of the EIA process. The reasoned conclusion must be "up-to-date" when a decision is taken to grant consent. In practice, we consider that it is likely that the period between BEIS reaching a conclusion on the significant effects of a proposed project and the decision as to whether permission or consent should be granted will be a relatively short one. As Article 8a(6) is new it will be transposed by the OPP (EIA) Regulations 2017 as detailed in the tables below. It is also our opinion that the implementation of this Article should not entail any extra burdens / costs for the offshore hydrocarbon and onshore pipe-line sectors.

### Transposition Tables

#### Offshore Hydrocarbons Sector

Provisions in PART 1 of the OPP (EIA) Regulations 2017	Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)
Regulation 9 and 15(e)	Addition of new regulations 5A(4) and 11(7D).

#### Onshore Pipe-lines Sector

Provisions in PART 2 of the OPP (EIA) Regulations 2017	Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)
Regulation 36(b)	Addition of new regulation 14(1C)



<b>Provisions in PART 3 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)</b>
<b>Regulation 47(c)</b>	Addition of new regulation 3(2C)

**Question 22: Do you have any comments on, or concerns with, BEIS's proposals regarding the transposition of Articles 8(a)(1); 8(a)(2); 8(a)(5) and 8(a)(6)?**

**Question 23: Do you agree with BEIS's view that the transposition of Articles 8(a)(1); 8(a)(2); 8(a)(5) and 8(a)(6) should not result in any extra burdens / costs for either the offshore hydrocarbon or onshore pipe-line sectors?**

**If you disagree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.**



## Informing the public of the decision - Article 9(1)

### Article 9(1)

*When a decision to grant or refuse development consent has been taken, the competent authority or authorities shall promptly inform the public and the authorities referred to in Article 6(1) thereof, in accordance with the national procedures, and shall ensure that the following information is available to the public and to the authorities referred to in Article 6(1), taking into account, where appropriate, the cases referred to in Article 8a(3):*

*(a) the content of the decision and any conditions attached thereto as referred to in Article 8a(1) and (2);*

*(b) the main reasons and considerations on which the decision is based, including information about the public participation process. This also includes the summary of the results of the consultations and the information gathered pursuant to Articles 5 to 7 and how those results have been incorporated or otherwise addressed, in particular the comments received from the affected Member State referred to in Article 7.*

72. This Article requires decisions and additional information about decisions, including results of the consultations undertaken, to be notified to the public and consultation bodies. The obligations of Article 9(1) would be broadly met by the existing Production and Pipe-lines (EIA Regulations). Nevertheless, there are additional information requirements which will be appropriately transposed through the OPP (EIA) Regulations 2017 as outlined in the tables below. However, the new requirements will only result in additional administrative burdens for BEIS, and there should be no extra burdens / costs for the offshore hydrocarbon and onshore pipe-line sectors.

### Transposition Tables

#### Offshore Hydrocarbons Sector

<b>Provisions in PART 1 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)</b>
<b>Regulations 9 and 15(g) &amp; (h)</b>	Addition of new regulations 5A(7) & 5A(8) and amendments to regulations 11(9) & 11(9A).



### Onshore Pipe-lines Sector

<b>Provisions in PART 2 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)</b>
<b>Regulation 36(d), (f) &amp; (h)</b>	Amendments to regulations 14(4); 14(5A) and 14(6).
<b>Regulation 36(e)</b>	Addition of new regulation 14(5)(c).

<b>Provisions in PART 3 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)</b>
<b>Regulation 47(e), (g) &amp; (i)</b>	Amendments to regulations 3(4); 3(5A) and 3(6).
<b>Regulation 47(f)</b>	Addition of new regulation 3(5)(c).

**Question 24:** Do you have any comments on, or concerns with, BEIS's proposals regarding the transposition of Article 9(1)?

**Question 25:** Do you agree with BEIS's view that the transposition of Article 9(1) should not result in any extra burdens / costs for either the offshore hydrocarbon or onshore pipe-line sectors?

If you disagree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.





## Conflicts of interest - Article 9a

### Article 9a

*Member States shall ensure that the competent authority or authorities perform the duties arising from this Directive in an objective manner and do not find themselves in a situation giving rise to a conflict of interest.*

*Where the competent authority is also the developer, Member States shall at least implement, within their organisation of administrative competences, an appropriate separation between conflicting functions when performing the duties arising from this Directive.*

73. This new Article is based on European Court of Justice case-law (C-474/10) and deals with a conflict of interest where an organisation is the developer as well as the consultation body and / or competent authority. Where the competent authority is also the developer there must be an appropriate separation between functions.
74. It has been established that no 'conflicts of interest' would ever arise in connection with the performance of BEIS's regulatory duties under the consenting regimes for onshore pipe-line projects. Therefore, Article 9a does not need to be transposed in respect to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended) or the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended).
75. With regard to the consenting regime for offshore hydrocarbon-related developments, the Oil and Gas Authority became the consenting authority for such developments in Autumn 2016. The implementation of Article 9a has been effected via appropriate amendments to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended) by the Energy (Transfer of Functions, Consequential Amendments and Revocation) Regulations 2016 to make it clear that the OGA cannot grant a consent without the Secretary of State's approval.

*See related questions under Article 10a on page 66.*



## Penalties - Article 10a

### Article 10a

*Member States shall lay down rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive. The penalties thus provided for shall be effective, proportionate and dissuasive.*

76. A new Article 10a requires that Member States must lay down rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive. The penalties thus provided for shall be effective, proportionate and dissuasive.
77. It is considered that the existing Production and Pipe-line (EIA) Regulations already have provisions on offences and penalties that would sufficiently cover the amendments being introduced by the OPP (EIA) Regulations 2017, and as a consequence we do not propose creating any additional offences. However, regulation 37 of the OPP (EIA) Regulations 2017 contains one very minor adjustment to regulation 18 of the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended) to reflect that “imposing conditions” now features in regulation 14(1A) rather than 14(1).

**Question 26: Do you have any comments on, or concerns with, BEIS’s position in relation to Articles 9(a) and 10(a)?**



## Exchanges of Information - Article 12(2)

### **Article 12(2)**

*In particular, every six years from 16 May 2017 Member States shall inform the Commission, where such data are available, of:*

- (a) the number of projects referred to in Annexes I and II made subject to an environmental impact assessment in accordance with Articles 5 to 10;*
- (b) the breakdown of environmental impact assessments according to the project categories set out in Annexes I and II;*
- (c) the number of projects referred to in Annex II made subject to a determination in accordance with Article 4(2);*
- (d) the average duration of the environmental impact assessment process;*
- (e) general estimates on the average direct costs of environmental impact assessments, including the impact from the application of this Directive to SMEs.*

78. This Article will be transposed by administrative means and will result in additional burdens / costs for BEIS as it will have to collate the necessary information. There will also be extra burdens / costs for the offshore hydrocarbon and onshore pipe-line sectors, as BEIS will need to consult the sectors to request details of the costs relating to the environmental impact assessment processes.

**Question 27: Do you agree with BEIS's view that Article 12(2) would result in extra burdens / costs for the offshore hydrocarbon and onshore pipe-line sectors?**

**If you agree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.**



## Transitional Arrangements - Article 3 of Directive 2014/52/EU

### Article 3

1. *Projects in respect of which the determination referred to in Article 4(2) of Directive 2011/92/EU was initiated before 16 May 2017 shall be subject to the obligations referred to in Article 4 of Directive 2011/92/EU prior to its amendment by this Directive.*

2. *Projects shall be subject to the obligations referred to in Article 3 and Articles 5 to 11 of Directive 2011/92/EU prior to its amendment by this Directive where, before 16 May 2017: (a) the procedure regarding the opinion referred to in Article 5(2) of Directive 2011/92/EU was initiated; or (b) the information referred to in Article 5(1) of Directive 2011/92/EU was provided.*

79. Article 3(1) of the 2014 Directive provides transitional measures where screening was initiated before 16 May 2017. Article 3(2) provides transitional measures for projects for which an environmental statement was submitted or where a scoping opinion has been sought before 16 May 2017. In such cases, certain provisions of the 2011 Directive will apply. The transitional measures will be transposed by the OPP (EIA) Regulations 2017 as described in the tables below.

### Transposition Tables

#### Offshore Hydrocarbons Sector

Provisions in PART 1 of the OPP (EIA) Regulations 2017	Changes made to the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended)
Regulation 22	Inclusion of the necessary saving / transitional provisions.

#### Onshore Pipe-lines Sector

Provisions in PART 2 of the OPP (EIA) Regulations 2017	Changes made to the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (as amended)
Regulation 41	Inclusion of the necessary saving / transitional provisions.



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<b>Provisions in PART 3 of the OPP (EIA) Regulations 2017</b>	<b>Changes made to the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (as amended)</b>
<b>Regulation 57</b>	Inclusion of the necessary saving / transitional provisions.

**Question 28: Do you have any comments on, or concerns with, BEIS's proposals regarding the transposition of Article 3?**



# Costs and Benefits Analysis

## **General Assessment of the impacts on the offshore hydrocarbon and onshore pipe-line sectors of transposing the revised EIA Directive**

80. Even though the revised EIA Directive amends several elements of the existing EIA Directive and incorporates new requirements, it is nevertheless the case that most of the obligations in question reflect what presently happens in practice under the existing Production and Pipe-lines (EIA) Regulation and, in some instances, the new requirements will have limited - or possibly no - discernible impacts on the offshore hydrocarbons and onshore pipe-line sectors (hereinafter referred to as the “offshore and onshore sectors”). This is primarily due to the manner in which the existing regulatory process has evolved over time since the original EIA Directive and subsequent amendments were transposed by the extant Regulations.
81. By way of further explanations to support BEIS’s position on the impacts to the offshore and onshore sectors of transposing the revised EIA Directive, it would be useful to highlight the following points:
- ✚ The existing EIA legislative regime currently adopts the ‘coordinated procedure’ for assessing applications for Consents / Directions as it offers the greatest flexibilities for project developers around the phasing / timing of an environmental impact assessment and an Appropriate Assessment (if necessary) under the Habitats Directive. It is therefore, BEIS’s intention to continue applying the coordinated procedure ‘post-implementation’ of the revised EIA Directive as it is well understood by industry, BEIS and the Department’s Statutory Advisors (e.g. the Joint Nature Conversation Committee (JNCC) and Natural England).
  - ✚ The amended and new environmental factors set out in the revised EIA Directive’s Articles and Annexes that need to be assessed under the EIA process are, in many instances, largely covered by project developers in applications for Consents and Directions submitted in line with the existing Production and Pipe-lines (EIA) Regulations which, incidentally, have suitable arrangements for screening projects (i.e. to determine whether Environmental Statements (ESs) should be submitted) and providing scoping opinions as to the contents of ESs. Accordingly, any extra burdens on the offshore and onshore sectors should not be overly substantial.
  - ✚ Project developers already utilise competent experts (either in-house or consultancies) for preparing ESs, and BEIS consults relevant advisers



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when evaluating applications for the purposes of reaching formal decisions.

- ✚ As previously indicated, it is anticipated that any additional monitoring requirements in relation to offshore hydrocarbon-related developments and would probably be infrequent and/or restricted to sensitive areas.
- ✚ In reality there would be no conflicts of interest as there have not been, and are very unlikely to be, any situations where BEIS would be a project developer as well as the Competent Authority.
- ✚ The offence and penalty provisions in the existing Production and Pipelines (EIA) Regulations are considered more than sufficient for dealing with any issues of non-compliance with the amending EIA Directive's obligations and on that basis they will be retained unaltered.
- ✚ The collation and provision of data (e.g. on costs) by project developers to BEIS for onward transmission to the Commission (probably via DCLG as the lead Government Department on general EIA-related topics) would place insignificant extra burdens on the offshore and onshore sectors.
- ✚ The existing Production and Pipeline (EIA) Regulations include comprehensive public participation requirements which would meet virtually all of the revised Directive's provisions. The change to the timeframe for consulting the public on ESs will also have no real impact on the offshore and onshore sectors as it represents a minor extension from 28 to 30 days.

82. It is also evident that the amended / new obligations of the revised EIA Directive are aimed at reducing regulatory burdens on business by providing more clarity on the parameters that should form the basis of the environmental impact assessment process. This means that there should be eventual savings (benefits) for the offshore and onshore sectors as future applications should focus on significant environmental effects as opposed to assessing other incidental / less serious impacts as part of the EIA legislative framework (although in many cases this is already the case).
83. When considering the above points, it is apparent that a relatively small proportion of the EIA Directive's amended / new requirements will actually result in additional burdens / costs for the offshore and onshore sectors. In this regard, and to further inform Departmental policy deliberations, BEIS circulated - in August / September 2016 - questionnaires to the offshore and onshore sectors which outlined the Department's proposals for transposing the revised EIA Directive and sought views on what the likely costs to industry would be as a result of complying with the amended / new requirements. BEIS received thirteen responses from the offshore sector and one from the onshore sector.



84. Whilst the responses included useful comments from a policy / administrative perspective (e.g. on the extra factors that will need to be assessed / considered under the EIA regulatory process), many of the suggested levels of additional costs expected to be incurred by industry through complying with the revised EIA Directive's amended / new obligations were, in BEIS's opinion, disproportionately high in relation to the scale of extra burdens that the offshore and onshore sectors would realistically face.
85. Therefore, utilising historical data / trends pertaining to EIA applications from 2009 to 2016, BEIS undertook an analysis of the anticipated costs plus savings (benefits) to the offshore and onshore sectors resulting from the transposition of the revised EIA Directive. The analysis of the '**undiscounted**' costs and savings (benefits) is described in the sections below.

### **Undiscounted Costs and Savings (Benefits) to the Offshore and Onshore Sectors of transposing the revised EIA Directive**

#### **Undiscounted Costs to the offshore and onshore sectors as a result of transposing the revised EIA Directive**

86. Taking into account the circumstances described in paragraphs 80 to 85, BEIS completed an analysis of the ten-year (2017 - 2026) forecasted costs to the offshore and onshore sectors of complying with the Directive's amended / new requirements which will be transposed by the OPP (EIA) Regulations 2017 and apply to:
- the preparation / submission of Consent applications accompanied by Environmental Statements (ESs) for Annex I projects;
  - the preparation / submission of applications for Directions (that no ESs required) for Annex II projects which covered operations relating to:
    - **Offshore Sector:** (i) drilling operations (e.g. appraisal, exploration, and development wells and sidetracks), (ii) production of oil and gas, and increases in their production, below the Annex I thresholds; and (iii) pipeline works below the Annex I thresholds;
    - **Onshore Sector:** new, or extensions to existing, pipelines;
  - extra 'five-yearly' monitoring for one offshore sector project per year (meaning the first monitoring programme would commence in 2022 (i.e. relating to a Consent granted in 2017) with one operation in each year thereafter; and





- the collation and submission to BEIS of 'six-yearly' reports providing information on the costs to industry of complying with the revised legislative obligations (first reports to be submitted in 2022).
87. The BEIS analysis of the ten-year forecasted costs for the offshore and onshore sectors deployed different assumptions for the four distinct aspects (identified in paragraph 86) across three scenarios - low, medium and high. The assumed timescales under each of the scenarios for determining the indicative costs to the offshore and onshore sectors for the completion by project developers of tasks linked to the four distinct aspects were derived from industry responses (unrelated to suggested costs) to the questionnaires and, where necessary, approximations made by BEIS based on what appeared to be reasonable for the defined tasks.
88. The BEIS analysis also factored into the assumptions for each scenario the issue of industry familiarisation with the amended / new EIA application processes. In this respect, and despite industry being broadly aware of the revised EIA Directive's requirements, it was presumed that the amount of time plus related costs for preparing 'Consent applications supported by Environmental Statements (ESs)' and 'applications seeking Directions that no ESs are required' under each of the scenarios would initially be greater in 2017 and 2018 before reducing to more stabilised levels from 2019 to 2026 due to, for example, the spread of best practice within the offshore and onshore sectors and future revisions to BEIS guidance.
89. In terms of the salaries that were used to derive the indicative costs to industry, the Full Economic Cost (FEC) for an Environmental Manager working for either an offshore or onshore project developer was estimated to be £75 per hour (i.e. £58 per hour (*derived by 'scaling-up' the salary for an Environmental Manager of £55.13 per hour in Hayes Oil & Gas Salaries Guide 2013* (<http://hays.clikpages.co.uk/Oil and Gas Salary Guide 2013/>) - does not appear to be a more recent version) plus £17 (30% overheads)) and the FEC for a consultant (working on behalf of project developers in the offshore and onshore sectors) was estimated to be £100 per hour (i.e. £77 per hour + £23 (30% overheads)).
90. The indicative costs to project developers in the offshore and onshore sectors and methods used to calculate them for the varying assumptions appertaining to the four distinct aspects (as referred to in paragraph 86) under each of the three scenarios (i.e. low, medium and high) are detailed below:

**(a) Consent Applications supported by Environmental Statements (ESs)**

The methods for calculating the indicative costs for Consent applications were:



**Offshore and onshore project developers** - The 'Hourly Salary (Environmental Manager)' multiplied by the 'No. of hours per Application / ES' (*the basis for which is described in paragraphs 87 and 88*) multiplied by the 'No. of Applications / ESs' to be prepared / submitted in each year.

**Consultants** - The 'Hourly Salary' multiplied by the 'No. of hours per Application / ES' (*the basis for which is described in paragraphs 87 and 88*) multiplied by the 'No. of Applications / ESs' to be prepared / submitted in each year.

### **(b) Applications for Directions (that no ES required)**

The methods for calculating the indicative costs for Direction applications for Annex II projects (concerning the typical Categories of offshore and onshore operations) were:

**Offshore and onshore project developers** - The 'Hourly Salary (Environmental Manager)' multiplied by the 'No. of hours per Application Category' (*the basis for which is described in paragraphs 87 and 88*) multiplied by the 'No. of Applications per Category' to be prepared / submitted in each year.

The assumptions under the three scenarios for onshore sector applications during each of the years (2017 - 2026) were based on consistent averages following an evaluation of Direction applications received over the past few years.

### **(c) Extra Monitoring for Offshore Sector Consents**

The indicative costs for extra offshore sector monitoring programmes were based on the different types of monitoring that could be required. For the purposes of the Costs and Benefits Analysis, BEIS assumed that monitoring conditions would be attached to at least one Consent per year for an Annex I project, with monitoring being undertaken on a 'five-yearly' cycle - meaning that the first monitoring programme would commence in 2021 (i.e. for a Consent granted in 2017) with one in each of the years thereafter. The estimated costs for additional monitoring across the three scenarios accounted for:

- basic monitoring (low scenario);
- intermediate monitoring (medium scenario); and
- comprehensive monitoring (high scenario).



**(d) Data Gathering for the submission to BEIS by the offshore and onshore sectors of 'six yearly' reports in 2022**

The methods for calculating the indicative costs for data gathering and the submission of 'six yearly' reports (one per offshore and onshore project developer) to BEIS in 2022 were:

**Offshore and onshore project developers** - The 'Hourly Salary (Environmental Manager)' multiplied by the 'No. of hours for preparing each Report' (*the basis for which is described in paragraph 87*) multiplied by the 'No. of Reports to be prepared / submitted by the average number of offshore and onshore project developers operating in 2022 (estimated to be 36 and 12 respectively - based on an assessment of applications (e.g. for Directions) submitted over recent years).

91. Based on the methodologies outlined in items (a) to (d) above, the estimated costs to the offshore and onshore sectors across the three scenarios are presented in Annexes A to C.

**Undiscounted Savings (Benefits) to the Offshore and Onshore Sectors of transposing the revised EIA Directive**

92. The BEIS analysis of forecasted savings to the offshore and onshore sectors as a result of transposing the revised EIA Directive relates to the anticipated numbers of Consent Applications (supported by ESs) and Applications for Directions (that no ESs required) that are likely to be submitted by project developers in the offshore and onshore sectors between 2017 and 2026 under the three scenarios (low, medium and high).
93. The savings to be accrued pertain to the existing EIA requirements that will still apply to the preparation of applications for Consents and Directions after the revised Directive's obligations take legal effect in the UK (i.e. from 16 May 2017 onwards) and stem from the fact that, as with the amended / new obligations, the elements in applications that are linked to the extant requirements would only need to focus on the significant environmental effects of proposed projects - thereby leading to reductions in costs.
94. To determine realistic levels for the potential savings, BEIS worked out what the likely costs would be to offshore and onshore project developers of covering the extant EIA requirements in future applications under the three scenarios, and then deployed indicative ratios of 10%, 15% and 20% to establish the corresponding low, medium and high-range savings.
95. In order to formulate the costs to which the abovementioned ratios were applied, BEIS deployed the following assumptions:



- ✚ the FECs for an Environmental Manager and a Consultant of £75 and £100 per hour respectively (as described in paragraph 89); and
- ✚ the estimated number of hours (appertaining to the existing EIA requirements) for the preparation by Environmental Managers and Consultants of applications for Consents (with ESs) and the preparation by Environmental Managers for Directions (that no ESs required) which would perceivably be static in each of the years 2017 to 2026 due to project developers already being familiar with the requirements - thus meaning that the associated costs per year would also be consistent.

96. The indicative savings to the offshore and onshore sectors and methods used to calculate them are detailed below:

**(a) Consent Applications supported by ESs**

The methods for calculating the indicative savings for Consent applications in each year were:

**Offshore and onshore project developers** - The Hourly Salary (Environmental Manager) multiplied by the No. of hours per Statement multiplied by the No. of Statements to be prepared / submitted in each year under the three scenarios (low, medium and high) - giving the total costs per year of which 10%, 15% and 20% represent the respective savings.

**Consultants** - The Hourly Salary multiplied by the No. of hours per Statement multiplied by the No. of Statements to be prepared / submitted in each year - giving the total costs per year under the three scenarios (low, medium and high) of which 10%, 15% and 20% represent the respective savings.

**(b) Applications for Directions (that no ES required)**

The methods for calculating the indicative savings for Direction applications for Annex II projects (concerning the typical Categories of offshore and onshore operations) were:

**Offshore and onshore project developers** - The 'Hourly Salary (Environmental Manager)' multiplied by the 'No. of hours per Application Category' multiplied by the 'No. of Applications per Category' to be prepared / submitted in each year - giving the total costs per year under the three scenarios (low, medium and high) of which 10%, 15% and 20% represent the respective savings.



97. Based on the methodologies set out in items (a) and (b) above, the estimated corresponding savings to the offshore and onshore sectors across the three scenarios are presented in Annexes D to F.

**Question 29: We would welcome your feedback on the assumptions (e.g. salary costs and predicted numbers of applications to be submitted under the three scenarios between 2017 and 2026) and methods used to calculate the respective estimated costs / savings to the offshore hydrocarbon and onshore pipe-line sectors as a result of BEIS's proposals for transposing the EIA Directive 2014/52/EU.**

**The information provided would be useful for the purposes of updating the Department's Costs and Benefits Analysis as part of the implementation process.**



# Assessing Impacts

## Equalities

While developing these proposals we have had regard to the public sector equality duty. The duty requires public authorities, in exercising their functions to have due regard to the need to:

- Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act;
- Advance equality of opportunity between people who share a protected characteristic and people who do not; and
- Foster good relations between people who share a protected characteristic and people who do not.

Our initial assessment is that there is no scope for the draft OPP (EIA) Regulations 2017 to have significant impacts on persons with protected characteristics, and have taken the factors above into account so far as relevant when formulating our proposals (for example, in relation to consultation requirements). However, we would be interested in any views or information that consultees have on any potential equalities impacts.

## Business

As a European Union measure with no gold-plating, this is a Non-Qualifying Regulatory Provision (NQRP) under the Better Regulation Framework. . However, a Costs and Benefits Analysis conducted by BEIS is included in this consultation document (paragraphs 80 to 97 and Annexes A to F).



## Sections and Questions

Definition of the environmental impact assessment process - Article 1(2)(g)	<b>Question 1:</b> Do you have any comments on, or concerns with, BEIS's approach to incorporating the definition of EIA (Article 1(2)(g)) into the existing regulatory regimes and our proposals for the transposition of Article 1(3)?
Exemptions: Defence and civil emergencies - Article 1(3)	
Coordinated procedures - Article 2(3)	<b>Question 2:</b> Do you have any comments on, or concerns with, BEIS's proposals pertaining to the transposition of Articles 2(3); 2(4) and 2(5)?
Exemptions: Public Consultation - Article 2(4)	
Exemptions: Public Consultation - Article 2(5)	<b>Question 3:</b> Do you agree with BEIS's view that the transposition of Articles 2(3); 2(4) and 2(5) should not result in any extra burdens / costs for the onshore pipe-lines sector?  If you disagree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.
The Assessment Process: Assessment Scope - Articles 3(1) & 3(2)	<b>Question 4:</b> Do you have any comments on, or concerns with, BEIS's proposals pertaining to the transposition of Articles 3(1) and 3(2)?  <b>Question 5:</b> Do you agree with BEIS's view that the transposition of Articles 3(1) and 3(2) could result in extra burdens / costs for the offshore hydrocarbon and onshore pipe-line sectors?  If you agree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.
Determining whether environmental impact assessment is required (screening): Thresholds and criteria for screening - Article 4(3)	See questions relating to Articles 4(5) and 4(6).



<p>Determining whether environmental impact assessment is required (screening): Information to be provided for screening - Article 4(4)</p>	<p><b>Question 6:</b> Do you have any comments on, or concerns with, BEIS's proposals relating to the transposition of Article 4(4)?</p> <p><b>Question 7:</b> Do you agree with BEIS's view that the transposition of Article 4(4) could result in a combination of relatively small additional burdens / costs plus some eventual cost reductions for the offshore hydrocarbon and onshore pipe-line sectors?</p> <p>If you agree, please provide estimates in respect to your particular operational activities of: <b>(a)</b> the likely increased burdens / costs; and <b>(b)</b> any potential cost reductions that might eventually be accrued. This data will further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.</p>
<p>Determining whether environmental impact assessment is required (screening): Screening Determination - Article 4(5)</p>	<p><b>Question 8:</b> Do you have any comments on, or concerns with, BEIS's proposals regarding the transposition of Articles 4(3); 4(5) and 4(6)?</p> <p><b>Question 9:</b> Do you agree with BEIS's view that the transposition of Articles 4(3); 4(5) and 4(6) should not result in any extra burdens / costs for either the offshore hydrocarbon or onshore pipe-line sectors?</p>
<p>Determining whether environmental impact assessment is required (screening): Timeframe for screening - Article 4(6)</p>	<p>If you disagree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.</p>
<p>Information to be provided in an Environmental Statement: Minimum information requirements - Article 5(1)</p>	<p><b>Question 10:</b> Do you have any comments on, or concerns with, BEIS's proposals pertaining to the transposition of Article 5(1)?</p> <p><b>Question 11:</b> Do you agree with BEIS's view that the transposition of Article 5(1) could result in a combination of relatively low additional burdens / costs plus some eventual cost reductions for the offshore hydrocarbon and onshore pipe-line sectors?</p> <p>If you agree, please provide estimates in respect to your particular operational activities of: <b>(a)</b> the likely increased burdens / costs; and <b>(b)</b> any potential cost reductions that might eventually be accrued. This data will further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information</p>





	contained within the Costs and Benefits Analysis.
Determining the scope and level of detail of the assessment (scoping) - Article 5(2)	<b>Question 12:</b> Do you have any comments on, or concerns with, BEIS's proposals appertaining to the transposition of Articles 5(2) and 5(3)?
Competent experts - Article 5(3)	<b>Question 13:</b> Do you agree with BEIS's view that the transposition of Articles 5(2) and 5(3) should not result in any extra burdens / costs for either the offshore hydrocarbon or onshore pipe-line sectors?  If you disagree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.
Consultation: Consultation bodies - Article 6(1)	<b>Question 14:</b> Do you have any comments on, or concerns with, BEIS's proposals regarding the transposition of Articles 6(1); 6(2) & 6(5) and 6(7)?
Electronic communication - Article 6(2) and 6(5)	<b>Question 15:</b> Do you agree with BEIS's view that the transposition of Articles 6(1); 6(2) & 6(5) and 6(7) should not result in any extra burdens / costs for either the offshore hydrocarbon or onshore pipe-line sectors?  If you disagree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.
Consultation timeframes - Article 6(7)	
Projects likely to have significant effects on the environment in another Member State - Article 7(5)	<b>Question 16:</b> Do you have any comments on, or concerns with, BEIS's proposals regarding the transposition of Article 7(5)?  <b>Question 17:</b> Do you agree with BEIS's view that the transposition of Article 7(5) should not result in any extra burdens / costs for either the offshore hydrocarbon or onshore pipe-line sectors?  If you disagree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.



<p>Taking into account in the consenting procedures the results of consultations and information gathered - Article 8</p>	<p><b>Question 18:</b> Do you have any comments on, or concerns with, BEIS’s proposals regarding the transposition of Article 8?</p> <p><b>Question 19:</b> Do you agree with BEIS’s view that the transposition of Article 8 should not result in any extra burdens / costs for either the offshore hydrocarbon or onshore pipe-line sectors?</p> <p>If you disagree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department’s Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.</p>
<p>Decisions: Information to be included in a decision - Article 8a(1)</p>	<p>See questions relating to Articles 8(a)(5) and 8(a)(6).</p>
<p>Decisions: Information to be included in a decision - Article 8a(2)</p>	
<p>Monitoring of significant environmental effects - Article 8a(4)</p>	<p><b>Question 20:</b> Do you have any comments on, or concerns with, BEIS’s proposals regarding the transposition of Article 8a(4)?</p> <p><b>Question 21:</b> Do you agree with BEIS’s view that the transposition of Article 8(a)(4) could result in extra burdens / costs for the offshore hydrocarbons sector?</p> <p>If you agree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department’s Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.</p>
<p>Decisions in a reasonable time period - Article 8a(5)</p>	<p><b>Question 22:</b> Do you have any comments on, or concerns with, BEIS’s proposals regarding the transposition of Articles 8(a)(1); 8(a)(2); 8(a)(5) and 8(a)(6)?</p> <p><b>Question 23:</b> Do you agree with BEIS’s view that the transposition of Articles 8(a)(1); 8(a)(2); 8(a)(5) and 8(a)(6) should not result in any extra burdens / costs for either the offshore hydrocarbon or onshore pipe-line sectors?</p> <p>If you disagree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department’s Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F).</p>
<p>Up-to-date reasoned conclusion - Article 8a(6)</p>	



	<p>When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.</p>
Informing the public of the decision - Article 9(1)	<p><b>Question 24:</b> Do you have any comments on, or concerns with, BEIS's proposals regarding the transposition of Article 9(1)?</p> <p><b>Question 25:</b> Do you agree with BEIS's view that the transposition of Article 9(1) should not result in any extra burdens / costs for either the offshore hydrocarbon or onshore pipe-line sectors?</p> <p>If you disagree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.</p>
Other issues: Conflicts of interest - Article 9a	<p><b>Question 26:</b> Do you have any comments on, or concerns with, BEIS's position in relation to Articles 9(a) and 10(a)?</p>
Other issues: Penalties - Article 10a	
Exchanges of Information - Article 12(2)	<p><b>Question 27:</b> Do you agree with BEIS's view that Article 12(2) would result in extra burdens / costs for the offshore hydrocarbon and onshore pipe-line sectors?</p> <p>If you agree, please supply estimates of any related cost implications for your particular operational activities so as to further inform the updating of the Department's Costs and Benefits Analysis (paragraphs 80 to 97 and Annexes A to F). When formulating your response to the above question, please also consider the specific information contained within the Costs and Benefits Analysis.</p>
Transitional Arrangements – Article 3 of Directive 2014/52/EU	<p><b>Question 28:</b> Do you have any comments on, or concerns with, BEIS's proposals regarding the transposition of Article 3?</p>
Costs and Benefits Analysis	<p><b>Question 29:</b> We would welcome your feedback on the assumptions (e.g. salary costs and predicted numbers of applications to be submitted under the three scenarios between 2017 and 2026) and methods used to calculate the respective estimated costs / savings to the offshore hydrocarbon and onshore pipe-line sectors as a result of BEIS's proposals for transposing the EIA Directive 2014/52/EU.</p> <p>The information provided would be useful for the purposes of updating the Department's Costs and Benefits Analysis as part of</p>



	the implementation process.
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## List of Annexes

**Annex A - Costs (undiscounted) to the Offshore Sector**

**Annex B - Costs (undiscounted) to the Onshore Sector**

**Annex C - Overall Costs (undiscounted) to the Offshore and Onshore Sectors**

**Annex D - Savings (undiscounted) to the Offshore Sector**

**Annex E - Savings (undiscounted) to the Onshore Sector**

**Annex F - Overall Savings (undiscounted) to the Offshore and Onshore Sectors**

**Annex G - Draft of the Offshore Production and Pipe-lines (Environmental Impact Assessment) (Amendment) Regulations 2017**



## About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department for Business, Energy and Industrial Strategy will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact BEIS Consultation Co-ordinator.

Department for Business, Energy and Industrial Strategy  
1 Victoria Street  
London SW1H 0ET

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**ANNEX A**

**COSTS (UNDISCOUNTED) TO THE OFFSHORE SECTOR**

**Section 1 - Consent applications with Environmental Statements (ESs)**

**(i) Low Cost Scenario - Three Consent Applications with ESs submitted per year between 2017 and 2026 - Additional (relevant) provisions of revised EIA Directive only**

Preparation per year of two out of three Consent Applications with ESs by Offshore project developers (Environmental Manager) between 2017 and 2026

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per App / ES (£s)	Total Costs for 2 Apps / ESs (£s)
2017	2	58	17	75	57	4,275	8,550
2018	2	58	17	75	57	4,275	8,550
2019	2	58	17	75	46	3,450	6,900
2020	2	58	17	75	46	3,450	6,900
2021	2	58	17	75	37	2,775	5,550
2022	2	58	17	75	37	2,775	5,550
2023	2	58	17	75	37	2,775	5,550
2024	2	58	17	75	37	2,775	5,550
2025	2	58	17	75	37	2,775	5,550
2026	2	58	17	75	37	2,775	5,550
<b>Cost for Preparation by Offshore Sector Project Developers of two Consent Applications with ESs per year from 2017 to 2026</b>							<b>64,200</b>

Preparation per year of one out of three Consent Applications with ESs by Consultants between 2017 and 2026

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per App / ES (£s)	Total Costs for 1 App / ES (£s)
2017	1	77	23	100	57	5,700	5,700
2018	1	77	23	100	57	5,700	5,700
2019	1	77	23	100	46	4,600	4,600
2020	1	77	23	100	46	4,600	4,600
2021	1	77	23	100	37	3,700	3,700
2022	1	77	23	100	37	3,700	3,700
2023	1	77	23	100	37	3,700	3,700
2024	1	77	23	100	37	3,700	3,700
2025	1	77	23	100	37	3,700	3,700
2026	1	77	23	100	37	3,700	3,700
<b>Cost for Preparation by Consultants of one Consent Application with ES per year from 2017 to 2026</b>							<b>42,800</b>

**Overall Cost to the Offshore Hydrocarbon Sector: £107,000**



**(ii) Medium Cost Scenario - Four Consent Applications with Environmental Statements (ESs) submitted per year between 2017 and 2026 - Additional (relevant) provisions of revised EIA Directive only**

Preparation per year of two out of four Consent Applications with ESs by Offshore project developers (Environmental Manager) between 2017 and 2026

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per App / ES (£s)	Total Costs for 2 Apps / ESs (£s)
2017	2	58	17	75	57	4,275	8,550
2018	2	58	17	75	57	4,275	8,550
2019	2	58	17	75	46	3,450	6,900
2020	2	58	17	75	46	3,450	6,900
2021	2	58	17	75	37	2,775	5,550
2022	2	58	17	75	37	2,775	5,550
2023	2	58	17	75	37	2,775	5,550
2024	2	58	17	75	37	2,775	5,550
2025	2	58	17	75	37	2,775	5,550
2026	2	58	17	75	37	2,775	5,550
<b>Cost for Preparation by Offshore Sector Project Developers of two Consent Applications with ESs per year from 2017 to 2026</b>							<b>64,200</b>

Preparation per year of two out of four Consent Applications with ESs by Consultants between 2017 and 2026

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per App / ES (£s)	Total Costs for 2 Apps / ESs (£s)
2017	2	77	23	100	57	5,700	11,400
2018	2	77	23	100	57	5,700	11,400
2019	2	77	23	100	46	4,600	9,200
2020	2	77	23	100	46	4,600	9,200
2021	2	77	23	100	37	3,700	7,400
2022	2	77	23	100	37	3,700	7,400
2023	2	77	23	100	37	3,700	7,400
2024	2	77	23	100	37	3,700	7,400
2025	2	77	23	100	37	3,700	7,400
2026	2	77	23	100	37	3,700	7,400
<b>Cost for Preparation by Consultants of two Consent Applications with ESs per year from 2017 to 2026</b>							<b>85,600</b>

**Overall Cost to the Offshore Hydrocarbon Sector: £149,800**





**(iii) High Cost Scenario - Five Consent Applications with Environmental Statements (ESs) submitted per year between 2017 and 2026 - Additional (relevant) provisions of revised EIA Directive only**

Preparation per year of three out of five Consent Applications with ESs by Offshore project developer (Environmental Manager) between 2017 and 2026

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per App / ES (£s)	Total Costs for 3 Apps / ESs (£s)
2017	3	58	17	75	57	4,275	12,825
2018	3	58	17	75	57	4,275	12,825
2019	3	58	17	75	46	3,450	10,350
2020	3	58	17	75	46	3,450	10,350
2021	3	58	17	75	37	2,775	8,325
2022	3	58	17	75	37	2,775	8,325
2023	3	58	17	75	37	2,775	8,325
2024	3	58	17	75	37	2,775	8,325
2025	3	58	17	75	37	2,775	8,325
2026	3	58	17	75	37	2,775	8,325
<b>Cost for Preparation by Offshore Sector Project Developers of three Consent Applications with ESs per year from 2017 to 2026</b>							<b>96,300</b>

Preparation per year of two out of five Consent Applications with ESs by Consultants between 2017 and 2026

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per App / ES (£s)	Total Costs for 2 Apps / ESs (£s)
2017	2	77	23	100	57	5,700	11,400
2018	2	77	23	100	57	5,700	11,400
2019	2	77	23	100	46	4,600	9,200
2020	2	77	23	100	46	4,600	9,200
2021	2	77	23	100	37	3,700	7,400
2022	2	77	23	100	37	3,700	7,400
2023	2	77	23	100	37	3,700	7,400
2024	2	77	23	100	37	3,700	7,400
2025	2	77	23	100	37	3,700	7,400
2026	2	77	23	100	37	3,700	7,400
<b>Cost for Preparation by Consultants of two Consent Applications with ESs per year from 2017 to 2026</b>							<b>85,600</b>

**Overall Cost to the Offshore Hydrocarbon Sector: £181,900**



**Section 2 - Direction applications (that no ES required)**

**Key:**

- **Direction Applications – Category 1:** Drilling Operations (e.g. Appraisal, Exploration, Development, Water Injection, Relief Wells and Sidetracks)
- **Direction Applications – Category 2:** Increases in Production (including Start of Production / Well Interventions)
- **Direction Applications – Category 3:** Other Minor Works (e.g. Pipeline Workovers, Electric Cables, Deposits)

**(i) Low Cost Scenario**

**Preparation / submission by Offshore Project Developers (Environmental Manager) of Applications for Directions that no ES needs to be prepared between 2017 and 2026 (based on 214 applications in 2017 reducing to 170 in 2026) - Additional (relevant) provisions of revised EIA Directive only**

Years	Average (Av) Number (No.) of Category (Cat) 1 Direction (Dir) Applications (Apps) per year	Av No. of Cat 2 Dir Apps per year	Av No. of Cat 3 Dir Apps per year	Av Total of Dir Apps per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No. of hours per Cat 1 Dir App	No. of hours per Cat 2 Dir App	No. of hours per Cat 3 Dir App	Cost per Cat 1 Dir App (£s)	Cost per Cat 2 Dir App (£s)	Cost per Cat 3 Dir App (£s)	Overall Costs for Cat 1 Dir Apps per year (£s)	Overall Costs for Cat 2 Dir Apps per year (£s)	Overall Costs for Cat 3 Dir Apps per year (£s)	Total Costs of Dir Apps per year (Cats 1 + 2 + 3) (£s)
2017	126	14	74	214	58	17	75	37	29	34	2,775	2,175	2,550	349,650	30,450	188,700	568,800
2018	122	14	74	210	58	17	75	37	29	34	2,775	2,175	2,550	338,550	30,450	188,700	557,700
2019	118	14	74	206	58	17	75	33	25	30	2,475	1,875	2,250	292,050	26,250	166,500	484,800
2020	114	13	71	198	58	17	75	33	25	30	2,475	1,875	2,250	282,150	24,375	159,750	466,275
2021	110	13	71	194	58	17	75	29	21	26	2,175	1,575	1,950	239,250	20,475	138,450	398,175
2022	106	13	71	190	58	17	75	29	21	26	2,175	1,575	1,950	230,550	20,475	138,450	389,475
2023	102	12	68	182	58	17	75	29	21	26	2,175	1,575	1,950	221,850	18,900	132,600	373,350
2024	98	12	68	178	58	17	75	29	21	26	2,175	1,575	1,950	213,150	18,900	132,600	364,650
2025	94	12	68	174	58	17	75	29	21	26	2,175	1,575	1,950	204,450	18,900	132,600	355,950
2026	90	12	68	170	58	17	75	29	21	26	2,175	1,575	1,950	195,750	18,900	132,600	347,250
														<b>Overall cost to the Offshore Sector for the Preparation of Applications for Directions from 2017 to 2026</b>			<b>4,306,425</b>



**(ii) Medium Cost Scenario**

**Preparation / submission by Offshore Project Developers (Environmental Manager) of Applications for Directions that no ES needs to be prepared between 2017 and 2026 (based on 217 applications in 2017 reducing to 173 in 2026) - Additional (relevant) provisions of revised EIA Directive only**

Years	Average (Av) Number (No.) of Category (Cat) 1 Direction (Dir) Applications (Apps) per year	Av No. of Cat 2 Dir Apps per year	Av No. of Cat 3 Dir Apps per year	Av Total of Dir Apps per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No. of hours per Cat 1 Dir App	No. of hours per Cat 2 Dir App	No. of hours per Cat 3 Dir App	Cost per Cat 1 Dir App (£s)	Cost per Cat 2 Dir App (£s)	Cost per Cat 3 Dir App (£s)	Overall Costs for Cat 1 Dir Apps per year (£s)	Overall Costs for Cat 2 Dir Apps per year (£s)	Overall Costs for Cat 3 Dir Apps per year (£s)	Total Costs of Dir Apps per year (Cats 1 + 2 + 3) (£s)
2017	127	15	75	217	58	17	75	37	29	34	2,775	2,175	2,550	352,425	32,625	191,250	576,300
2018	123	15	75	213	58	17	75	37	29	34	2,775	2,175	2,550	341,325	32,625	191,250	565,200
2019	119	15	75	209	58	17	75	33	25	30	2,475	1,875	2,250	294,525	28,125	168,750	491,400
2020	115	14	72	201	58	17	75	33	25	30	2,475	1,875	2,250	284,625	26,250	162,000	472,875
2021	111	14	72	197	58	17	75	29	21	26	2,175	1,575	1,950	241,425	22,050	140,400	403,875
2022	107	14	72	193	58	17	75	29	21	26	2,175	1,575	1,950	232,725	22,050	140,400	395,175
2023	103	13	69	185	58	17	75	29	21	26	2,175	1,575	1,950	224,025	20,475	134,550	379,050
2024	99	13	69	181	58	17	75	29	21	26	2,175	1,575	1,950	215,325	20,475	134,550	370,350
2025	95	13	69	177	58	17	75	29	21	26	2,175	1,575	1,950	206,625	20,475	134,550	361,650
2026	91	13	69	173	58	17	75	29	21	26	2,175	1,575	1,950	197,925	20,475	134,550	352,950
														<b>Overall cost to the Offshore Sector for the Preparation of Applications for Directions from 2017 to 2026</b>			<b>4,368,825</b>



**(iii) High Cost Scenario**

**Preparation / submission by Offshore Project Developers (Environmental Manager) of Applications for Directions that no ES needs to be prepared between 2017 and 2026 (based on 220 applications in 2017 reducing to 176 in 2026) - Additional (relevant) provisions of revised EIA Directive only**

Years	Average (Av) Number (No.) of Category (Cat) 1 Direction (Dir) Applications (Apps) per year	Av No. of Cat 2 Dir Apps per year	Av No. of Cat 3 Dir Apps per year	Av Total of Dir Apps per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No. of hours per Cat 1 Dir App	No. of hours per Cat 2 Dir App	No. of hours per Cat 3 Dir App	Cost per Cat 1 Dir App (£s)	Cost per Cat 2 Dir App (£s)	Cost per Cat 3 Dir App (£s)	Overall Costs for Cat 1 Dir Apps per year (£s)	Overall Costs for Cat 2 Dir Apps per year (£s)	Overall Costs for Cat 3 Dir Apps per year (£s)	Total Costs of Dir Apps per year (Cats 1 + 2 + 3) (£s)
2017	128	16	76	220	58	17	75	37	29	34	2,775	2,175	2,550	355,200	34,800	193,800	583,800
2018	124	16	76	216	58	17	75	37	29	34	2,775	2,175	2,550	344,100	34,800	193,800	572,700
2019	120	16	76	212	58	17	75	33	25	30	2,475	1,875	2,250	297,000	30,000	171,000	498,000
2020	116	15	73	204	58	17	75	33	25	30	2,475	1,875	2,250	287,100	28,125	164,250	479,475
2021	112	15	73	200	58	17	75	29	21	26	2,175	1,575	1,950	243,600	23,625	142,350	409,575
2022	108	15	73	196	58	17	75	29	21	26	2,175	1,575	1,950	234,900	23,625	142,350	400,875
2023	104	14	70	188	58	17	75	29	21	26	2,175	1,575	1,950	226,200	22,050	136,500	384,750
2024	100	14	70	184	58	17	75	29	21	26	2,175	1,575	1,950	217,500	22,050	136,500	376,050
2025	96	14	70	180	58	17	75	29	21	26	2,175	1,575	1,950	208,800	22,050	136,500	367,350
2026	92	14	70	176	58	17	75	29	21	26	2,175	1,575	1,950	200,100	22,050	136,500	358,650
														<b>Overall cost to the Offshore Sector for the Preparation of Applications for Directions from 2017 to 2026</b>			<b>4,431,225</b>



### Section 3 - Additional Monitoring Programmes

#### (i) Low Cost Scenario - Basic Monitoring

Years	Monitoring Required	Average Cost for Monitoring (£s)	Plus 30% Overheads (£s)	Total Costs per year (£s)
2021	1	200,000	60,000	260,000
2022	1	200,000	60,000	260,000
2023	1	200,000	60,000	260,000
2024	1	200,000	60,000	260,000
2025	1	200,000	60,000	260,000
2026	1	200,000	60,000	260,000
			<b>Overall monitoring cost to the Offshore Sector from 2021 to 2026</b>	<b>1,560,000</b>

#### (ii) Medium Cost Scenario - Intermediate Monitoring

Years	Monitoring Required	Average Cost for Monitoring (£s)	Plus 30% Overheads (£s)	Total Costs per year (£s)
2021	1	250,000	75,000	325,000
2022	1	250,000	75,000	325,000
2023	1	250,000	75,000	325,000
2024	1	250,000	75,000	325,000
2025	1	250,000	75,000	325,000
2026	1	250,000	75,000	325,000
			<b>Overall monitoring cost to the Offshore Sector from 2021 to 2026</b>	<b>1,950,000</b>

#### (iii) High Cost Scenario - Comprehensive Monitoring

Years	Monitoring Required	Average Cost for Monitoring (£s)	Plus 30% Overheads (£s)	Total Costs per year (£s)
2021	1	300,000	90,000	390,000
2022	1	300,000	90,000	390,000
2023	1	300,000	90,000	390,000
2024	1	300,000	90,000	390,000
2025	1	300,000	90,000	390,000
2026	1	300,000	90,000	390,000
			<b>Overall monitoring cost to the Offshore Sector from 2021 to 2026</b>	<b>2,340,000</b>



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& Industrial Strategy

Section 4 - Data Gathering for submission to BEIS 'six yearly' reports in 2022

(i) Low Cost Scenario - 27 hours preparation per report per project developer

Year	Reports per Offshore Project Developer	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No. of hours for Data Gathering / preparing Report per Offshore Project Developer	Average costs for Data Gathering / preparing Report per Offshore Project Developer (£s)	Average number of Offshore Project Developers in 2022	Total Cost for Data Gathering / Preparing Reports (£s)
2022	1	58	17	75	27	2,025	36	72,900
							Overall cost to the Offshore Sector in 2022 for preparing Reports	72,900

(ii) Medium Cost Scenario - 30 hours preparation per report per project developer

Year	Reports per Offshore Project Developer	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No. of hours for Data Gathering / preparing Report per Offshore Project Developer	Average costs for Data Gathering / preparing Report per Offshore Project Developer (£s)	Average number of Offshore Project Developers in 2022	Total Cost for Data Gathering / Preparing Reports (£s)
2022	1	58	17	75	30	2,250	36	81,000
							Overall cost to the Offshore Sector in 2022 for preparing Reports	81,000

(iii) High Cost Scenario - 37 hours preparation per report per project developer

Year	Reports per Offshore Project Developer	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No. of hours for Data Gathering / preparing Report per Offshore Project Developer	Average costs for Data Gathering / preparing Report per Offshore Project Developer (£s)	Average number of Offshore Project Developers in 2022	Total Cost for Data Gathering / Preparing Reports (£s)
2022	1	58	17	75	37	2,775	36	99,900
							Overall cost to the Offshore Sector in 2022 for preparing Reports	99,900



**ANNEX B**

**COSTS (UNDISCOUNTED) TO THE ONSHORE SECTOR**

**Section 1 - Consent applications supported by Environmental Statements (ESs)**

**(i) Low Cost Scenario - Two Consent Applications with Environmental Statements (ESs) submitted in 2021 (1 ES) and 2026 (1 ES) - Additional (relevant) provisions of revised EIA Directive only**

Preparation of one out of two Consent Applications with ESs by an Onshore project developer (Environmental Manager) in 2021

Year	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per App / ES (£s)	Total Cost for 1 App / ES (£s)
2021 (Pipe-line Works Project)	1	58	17	75	57	4,275	4,275
Cost for Preparation by Onshore Sector Project Developer of one Consent Application with ES in 2021							4,275

Preparation of one out of two Consent Applications with ESs by a Consultant in 2026

Year	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per App / ES (£s)	Total Cost for 1 App / ES (£s)
2026 (Public Gas Transporter Pipe-line Project)	1	77	23	100	57	5,700	5,700
Cost for Preparation by a Consultant of one Consent Application with ES in 2026							5,700

**Overall Cost to the Onshore Sector: £9,975**



**(ii) Medium Cost Scenario - Three Consent Applications with Environmental Statements (ESs) submitted in 2021 (1 ES) and 2026 (2 ESs) - Additional (relevant) provisions of revised EIA Directive only**

Preparation of two out of three Consent Applications with ESs by an Onshore project developer (Environmental Manager) in 2021 and 2026

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per App / ES (£s)	Total Costs for 2 Apps / ESs (£s)
2021 (Pipe-line Works Project)	1	58	17	75	57	4,275	4,275
2026 (Public Gas Transporter Pipe-line Project)	1	58	17	75	57	4,275	4,275
<b>Cost for Preparation by Onshore Sector Project Developers of two Consent Applications with ESs in 2021 and 2026</b>							<b>8,550</b>

Preparation of one out of three Consent Applications with ESs by Consultants in 2026

Year	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per App / ES (£s)	Total Cost for 1 App / ES (£s)
2026 (Public Gas Transporter Pipe-line Project)	1	77	23	100	57	5,700	5,700
<b>Cost for Preparation by Consultants of one Consent Application with ES in 2026</b>							<b>5,700</b>

**Overall Cost to the Onshore Sector: £14,250**





**(iii) High Cost Scenario - Four Consent Applications with Environmental Statements (ESs) submitted in 2021 (2 ESs) and 2026 (2 ESs) - Additional (relevant) provisions of revised EIA Directive only**

Preparation of two out of four Consent Applications with ESs by an Onshore project developer (Environmental Manager) in 2021 and 2026

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per App / ES (£s)	Total Costs for 2 Apps / ESs (£s)
2021 (Pipe-line Works Project)	1	58	17	75	57	4,275	4,275
2026 (Public Gas Transporter Pipe-line Project)	1	58	17	75	57	4,275	4,275
<b>Cost for Preparation by Onshore Sector Project Developers of two Consent Applications with ESs in 2021 and 2026</b>							<b>8,550</b>

Preparation of two out of four Consent Applications with ESs by Consultants in 2021 and 2026

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per App / ES (£s)	Total Costs for 2 Apps / ESs (£s)
2021 (Pipe-line Works Project)	1	77	23	100	57	5,700	5,700
2026 (Public Gas Transporter Pipe-line Project)	1	77	23	100	57	5,700	5,700
<b>Cost for Preparation by Consultants of two Consent Applications with ESs in 2021 and 2026</b>							<b>11,400</b>

**Overall Cost to the Onshore Sector: £19,950**



Section 2 - Direction applications (that no ES required)

(i) Low Cost Scenario

Preparation / submission by Onshore Project Developers (Environmental Manager) of 22 Applications per year for Directions that no ES needs to be prepared between 2017 and 2026 - Additional (relevant) provisions of revised EIA Directive only

Years	Average number of Direction Applications for new, or extensions to existing, Pipelines per year	Cost per hour (£s)	Plus 30% Overhead s (£s)	Total Cost per hour (£s)	No of hours per Direction Application	Cost per Direction Application (£s)	Total Costs per year (£s)
2017	22	58	17	75	34	2,550	56,100
2018	22	58	17	75	34	2,550	56,100
2019	22	58	17	75	30	2,250	49,500
2020	22	58	17	75	30	2,250	49,500
2021	22	58	17	75	26	1,950	42,900
2022	22	58	17	75	26	1,950	42,900
2023	22	58	17	75	26	1,950	42,900
2024	22	58	17	75	26	1,950	42,900
2025	22	58	17	75	26	1,950	42,900
2026	22	58	17	75	26	1,950	42,900
<b>Overall cost to the Onshore Sector of preparing Applications for Directions from 2017 to 2026</b>							<b>468,600</b>



**(ii) Medium Cost Scenario**

**Preparation / submission by Onshore Project Developers (Environmental Manager) of 23 Applications per year for Directions that no ES needs to be prepared between 2017 and 2026 - Additional (relevant) provisions of revised EIA Directive only**

Years	Average number of Direction Applications for new, or extensions to existing, Pipelines per year	Cost per hour (£s)	Plus 30% Overhead s (£s)	Total Cost per hour (£s)	No of hours per Direction Application	Cost per Direction Application (£s)	Total Costs per year (£s)
2017	23	58	17	75	34	2,550	58,650
2018	23	58	17	75	34	2,550	58,650
2019	23	58	17	75	30	2,250	51,750
2020	23	58	17	75	30	2,250	51,750
2021	23	58	17	75	26	1,950	44,850
2022	23	58	17	75	26	1,950	44,850
2023	23	58	17	75	26	1,950	44,850
2024	23	58	17	75	26	1,950	44,850
2025	23	58	17	75	26	1,950	44,850
2026	23	58	17	75	26	1,950	44,850
<b>Overall cost to the Onshore Sector of preparing Applications for Directions from 2017 to 2026</b>							<b>489,900</b>



**(iii) High Cost Scenario**

**Preparation / submission by Onshore Project Developers (Environmental Manager) of 24 Applications per year for Directions that no ES needs to be prepared between 2017 and 2026 - Additional (relevant) provisions of revised EIA Directive only**

Years	Average number of Direction Applications for new, or extensions to existing, Pipelines per year	Cost per hour (£s)	Plus 30% Overhead s (£s)	Total Cost per hour (£s)	No of hours per Direction Application	Cost per Direction Application (£s)	Total Costs per year (£s)
2017	24	58	17	75	34	2,550	61,200
2018	24	58	17	75	34	2,550	61,200
2019	24	58	17	75	30	2,250	54,000
2020	24	58	17	75	30	2,250	54,000
2021	24	58	17	75	26	1,950	46,800
2022	24	58	17	75	26	1,950	46,800
2023	24	58	17	75	26	1,950	46,800
2024	24	58	17	75	26	1,950	46,800
2025	24	58	17	75	26	1,950	46,800
2026	24	58	17	75	26	1,950	46,800
<b>Overall cost to the Onshore Sector of preparing Applications for Directions from 2017 to 2026</b>							<b>511,200</b>



Section 3 - Data Gathering for submission to BEIS 'six yearly' reports in 2022

(i) Low Cost Scenario - 27 hours preparation per report per project developer

Year	Reports per Onshore Project Developer	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No. of hours for Data Gathering / preparing Report per Onshore Project Developer	Average costs for Data Gathering / preparing Report per Onshore Project Developer (£s)	Average number of Onshore Project Developers in 2022	Total Cost for Data Gathering / Preparing Reports (£s)
2022	1	58	17	75	27	2,025	12	24,300
						Overall cost to the Onshore Sector in 2022 for preparing Reports		24,300

(ii) Medium Cost Scenario - 30 hours preparation per report per project developer

Year	Reports per Onshore Project Developer	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No. of hours for Data Gathering / preparing Report per Onshore Project Developer	Average costs for Data Gathering / preparing Report per Onshore Project Developer (£s)	Average number of Onshore Project Developers in 2022	Total Cost for Data Gathering / Preparing Reports (£s)
2022	1	58	17	75	30	2,250	12	27,000
						Overall cost to the Onshore Sector in 2022 for preparing Reports		27,000

(iii) High Cost Scenario - 37 hours preparation per report per project developer

Year	Reports per Onshore Project Developer	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No. of hours for Data Gathering / preparing Report per Onshore Project Developer	Average costs for Data Gathering / preparing Report per Onshore Project Developer (£s)	Average number of Onshore Project Developers in 2022	Total Cost for Data Gathering / Preparing Reports (£s)
2022	1	58	17	75	37	2,775	12	33,300
						Overall cost to the Onshore Sector in 2022 for preparing Reports		33,300



**ANNEX C**

**OVERALL COSTS (UNDISCOUNTED) TO THE OFFSHORE AND ONSHORE SECTORS**

**(i) Low Costs Scenario**

Years	Overall Offshore Sector Costs (£s)	Overall Onshore Sector Costs (£s)	Grand Total of Costs (£s)
2017	583,050	56,100	639,150
2018	571,950	56,100	628,050
2019	496,300	49,500	545,800
2020	477,775	49,500	527,275
2021	667,425	47,175	714,600
2022	731,625	67,200	798,825
2023	642,600	42,900	685,500
2024	633,900	42,900	676,800
2025	625,200	42,900	668,100
2026	616,500	48,600	665,100
	<b>6,046,325</b>	<b>502,875</b>	<b>6,549,200</b>

**(ii) Medium Costs Scenario**

Years	Overall Offshore Sector Costs (£s)	Overall Onshore Sector Costs (£s)	Grand Total of Costs (£s)
2017	596,250	58,650	654,900
2018	585,150	58,650	643,800
2019	507,500	51,750	559,250
2020	488,975	51,750	540,725
2021	741,825	49,125	790,950
2022	814,125	71,850	885,975
2023	717,000	44,850	761,850
2024	708,300	44,850	753,150
2025	699,600	44,850	744,450
2026	690,900	54,825	745,725
	<b>6,549,625</b>	<b>531,150</b>	<b>7,080,775</b>

**(iii) High Costs Scenario**

Years	Overall Offshore Sector Costs (£s)	Overall Onshore Sector Costs (£s)	Grand Total of Costs (£s)
2017	608,025	61,200	669,225
2018	596,925	61,200	658,125
2019	517,550	54,000	571,550
2020	499,025	54,000	553,025
2021	815,300	56,775	872,075
2022	906,500	80,100	986,600
2023	790,475	46,800	837,275
2024	781,775	46,800	828,575
2025	773,075	46,800	819,875
2026	764,375	56,775	821,150
	<b>7,053,025</b>	<b>564,450</b>	<b>7,617,475</b>



**ANNEX D**

**SAVINGS (UNDISCOUNTED) TO THE OFFSHORE SECTOR**

**Section 1 - Consent applications supported by Environmental Statements (ESs)**

**(i) Low-Range Savings - Three Consent Applications with Environmental Statements (ESs) submitted per year between 2017 and 2026 - Covering extant (EIA) requirements that will still apply after transposition of the revised EIA Directive**

Preparation per year of two out of three Consent Applications with ESs by Offshore project developers (Environmental Manager) between 2017 and 2026

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per ES (£s)	Total Costs for 2 ESs (£s)	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)
2017	2	58	17	75	150	11,250	22,500	2,250	3,375	4,500
2018	2	58	17	75	150	11,250	22,500	2,250	3,375	4,500
2019	2	58	17	75	150	11,250	22,500	2,250	3,375	4,500
2020	2	58	17	75	150	11,250	22,500	2,250	3,375	4,500
2021	2	58	17	75	150	11,250	22,500	2,250	3,375	4,500
2022	2	58	17	75	150	11,250	22,500	2,250	3,375	4,500
2023	2	58	17	75	150	11,250	22,500	2,250	3,375	4,500
2024	2	58	17	75	150	11,250	22,500	2,250	3,375	4,500
2025	2	58	17	75	150	11,250	22,500	2,250	3,375	4,500
2026	2	58	17	75	150	11,250	22,500	2,250	3,375	4,500
<b>Savings to the Offshore Sector over years 2017 to 2026</b>								<b>22,500</b>	<b>33,750</b>	<b>45,000</b>



Preparation per year of one out of three Consent Applications with ESs by Consultants between 2017 and 2026

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per ES (£s)	Total Costs for 1 ES (£s)	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)
2017	1	77	23	100	150	15,000	15,000	1,500	2,250	3,000
2018	1	77	23	100	150	15,000	15,000	1,500	2,250	3,000
2019	1	77	23	100	150	15,000	15,000	1,500	2,250	3,000
2020	1	77	23	100	150	15,000	15,000	1,500	2,250	3,000
2021	1	77	23	100	150	15,000	15,000	1,500	2,250	3,000
2022	1	77	23	100	150	15,000	15,000	1,500	2,250	3,000
2023	1	77	23	100	150	15,000	15,000	1,500	2,250	3,000
2024	1	77	23	100	150	15,000	15,000	1,500	2,250	3,000
2025	1	77	23	100	150	15,000	15,000	1,500	2,250	3,000
2026	1	77	23	100	150	15,000	15,000	1,500	2,250	3,000
Savings to the Offshore Sector over years 2017 to 2026								15,000	22,500	30,000

**Overall Savings to the Offshore Sector: £37,500      £56,250      £75,000**





**(ii) Medium-Range Savings - Four Consent Applications with Environmental Statements (ESs) submitted per year between 2017 and 2026 - Covering extant (EIA) requirements that will still apply after transposition of the revised EIA Directive**

Preparation per year of two out of four Consent Applications with ESs by Offshore project developers (Environmental Manager) between 2017 and 2026

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per ES (£s)	Total Costs for 2 ESs (£s)	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)
2017	2	58	17	75	150	11,250	22,500	2,250	3,375	4,500
2018	2	58	17	75	150	11,250	22,500	2,250	3,375	4,500
2019	2	58	17	75	150	11,250	22,500	2,250	3,375	4,500
2020	2	58	17	75	150	11,250	22,500	2,250	3,375	4,500
2021	2	58	17	75	150	11,250	22,500	2,250	3,375	4,500
2022	2	58	17	75	150	11,250	22,500	2,250	3,375	4,500
2023	2	58	17	75	150	11,250	22,500	2,250	3,375	4,500
2024	2	58	17	75	150	11,250	22,500	2,250	3,375	4,500
2025	2	58	17	75	150	11,250	22,500	2,250	3,375	4,500
2026	2	58	17	75	150	11,250	22,500	2,250	3,375	4,500
<b>Savings to Offshore Sector over years 2017 to 2026</b>								<b>22,500</b>	<b>33,750</b>	<b>45,000</b>



Preparation per year of two out of four Consent Applications with ESs by Consultants between 2017 and 2026

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per ES (£s)	Total Costs for 2 ESs (£s)	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)
2017	2	77	23	100	150	15,000	30,000	3,000	4,500	6,000
2018	2	77	23	100	150	15,000	30,000	3,000	4,500	6,000
2019	2	77	23	100	150	15,000	30,000	3,000	4,500	6,000
2020	2	77	23	100	150	15,000	30,000	3,000	4,500	6,000
2021	2	77	23	100	150	15,000	30,000	3,000	4,500	6,000
2022	2	77	23	100	150	15,000	30,000	3,000	4,500	6,000
2023	2	77	23	100	150	15,000	30,000	3,000	4,500	6,000
2024	2	77	23	100	150	15,000	30,000	3,000	4,500	6,000
2025	2	77	23	100	150	15,000	30,000	3,000	4,500	6,000
2026	2	77	23	100	150	15,000	30,000	3,000	4,500	6,000
<b>Savings to Offshore Sector over years 2017 to 2026</b>								<b>30,000</b>	<b>45,000</b>	<b>60,000</b>

**Overall Savings to the Offshore Sector: £52,500      £78,750      £105,000**



**(iii) High-Range Savings - Five Consent Applications with Environmental Statements (ESs) submitted per year between 2017 and 2026 - Covering extant (EIA) requirements that will still apply after transposition of the revised EIA Directive**

Preparation per year of three out of five Consent Applications with ESs by Offshore project developer (Environmental Manager) between 2017 and 2026

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per ES (£s)	Total Costs for 3 ESs (£s)	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)
2017	3	58	17	75	150	11,250	33,750	3,375	5,063	6,750
2018	3	58	17	75	150	11,250	33,750	3,375	5,063	6,750
2019	3	58	17	75	150	11,250	33,750	3,375	5,063	6,750
2020	3	58	17	75	150	11,250	33,750	3,375	5,063	6,750
2021	3	58	17	75	150	11,250	33,750	3,375	5,063	6,750
2022	3	58	17	75	150	11,250	33,750	3,375	5,063	6,750
2023	3	58	17	75	150	11,250	33,750	3,375	5,063	6,750
2024	3	58	17	75	150	11,250	33,750	3,375	5,063	6,750
2025	3	58	17	75	150	11,250	33,750	3,375	5,063	6,750
2026	3	58	17	75	150	11,250	33,750	3,375	5,063	6,750
<b>Savings to Offshore Sector over years 2017 to 2026</b>								<b>33,750</b>	<b>50,630</b>	<b>67,500</b>



Preparation per year of two out of five Consent Applications with ESs by Consultants between 2017 and 2026

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per ES (£s)	Total Costs for 2 ESs (£s)	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)
2017	2	77	23	100	150	15,000	30,000	3,000	4,500	6,000
2018	2	77	23	100	150	15,000	30,000	3,000	4,500	6,000
2019	2	77	23	100	150	15,000	30,000	3,000	4,500	6,000
2020	2	77	23	100	150	15,000	30,000	3,000	4,500	6,000
2021	2	77	23	100	150	15,000	30,000	3,000	4,500	6,000
2022	2	77	23	100	150	15,000	30,000	3,000	4,500	6,000
2023	2	77	23	100	150	15,000	30,000	3,000	4,500	6,000
2024	2	77	23	100	150	15,000	30,000	3,000	4,500	6,000
2025	2	77	23	100	150	15,000	30,000	3,000	4,500	6,000
2026	2	77	23	100	150	15,000	30,000	3,000	4,500	6,000
<b>Savings to Offshore Sector over years 2017 to 2026</b>								<b>30,000</b>	<b>45,000</b>	<b>60,000</b>

**Overall Savings to the Offshore Sector: £63,750      £95,630      £127,500**



**Section 2 - Direction applications (that no ES required)**

**(i) Low-Range Savings**

**Key:**

- **Direction Applications – Category 1:** Drilling Operations (e.g. Appraisal, Exploration, Development, Water Injection, Relief Wells and Sidetracks)
- **Direction Applications – Category 2:** Increases in Production (including Start of Production / Well Interventions)
- **Direction Applications – Category 3:** Other Minor Works (e.g. Pipeline Workovers, Electric Cables, Deposits)

**Preparation / submission by Offshore Project Developers (Environmental Manager) of Applications for Directions that no ES needs to be prepared between 2017 and 2026 (based on 214 applications in 2017 reducing to 170 in 2026) - Covering extant (EIA) requirements that will still apply after transposition of the revised EIA Directive**

Years	Av No of Cat 1 Dir Apps per year	Av No. of Cat 2 Dir Apps per year	Av No. of Cat 3 Dir Apps per year	Av Total of Dir Apps per year	Cost per hour (£s)	Plus 30% O/heads (£s)	Total Cost per hour (£s)	No. of hours per Cat 1 Dir App	No. of hours per Cat 2 Dir App	No. of hours per Cat 3 Dir App	Cost per Cat 1 Dir App (£s)	Cost per Cat 2 Dir App (£s)	Cost per Cat 3 Dir App (£s)	Overall Costs for Cat 1 Dir Apps per year (£s)	Overall Costs for Cat 2 Dir Apps per year (£s)	Overall Costs for Cat 3 Dir Apps per year (£s)	Total Costs of Dir Apps per year (Cats 1 + 2 + 3) (£s)	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)
2017	126	14	74	214	58	17	75	45	37	42	3,375	2,775	3,150	425,250	38,850	233,100	697,200	69,720	104,580	139,440
2018	122	14	74	210	58	17	75	45	37	42	3,375	2,775	3,150	411,750	38,850	233,100	683,700	68,370	102,555	136,740
2019	118	14	74	206	58	17	75	45	37	42	3,375	2,775	3,150	398,250	38,850	233,100	670,200	67,020	100,530	134,040
2020	114	13	71	198	58	17	75	45	37	42	3,375	2,775	3,150	384,750	36,075	223,650	644,475	64,448	96,671	128,895
2021	110	13	71	194	58	17	75	45	37	42	3,375	2,775	3,150	371,250	36,075	223,650	630,975	63,098	94,646	126,195
2022	106	13	71	190	58	17	75	45	37	42	3,375	2,775	3,150	357,750	36,075	223,650	617,475	61,748	92,621	123,495
2023	102	12	68	182	58	17	75	45	37	42	3,375	2,775	3,150	344,250	33,300	214,200	591,750	59,175	88,763	118,350
2024	98	12	68	178	58	17	75	45	37	42	3,375	2,775	3,150	330,750	33,300	214,200	578,250	57,825	86,738	115,650
2025	94	12	68	174	58	17	75	45	37	42	3,375	2,775	3,150	317,250	33,300	214,200	564,750	56,475	84,713	112,950
2026	90	12	68	170	58	17	75	45	37	42	3,375	2,775	3,150	303,750	33,300	214,200	551,250	55,125	82,688	110,250
<b>Overall Savings to the Offshore Sector over years 2017 to 2026</b>																	<b>623,003</b>	<b>934,504</b>	<b>1,246,005</b>	



**(ii) Medium-Range Savings**

**Preparation / submission by Offshore Project Developers (Environmental Manager) of Applications for Directions that no ES needs to be prepared between 2017 and 2026 (based on 217 applications in 2017 reducing to 173 in 2026) - Covering extant (EIA) requirements that will still apply after transposition of the revised EIA Directive**

Years	Av No of Cat 1 Dir Apps per year	Av No. of Cat 2 Dir Apps per year	Av No. of Cat 3 Dir Apps per year	Av Total of Dir Apps per year	Cost per hour (£s)	Plus 30% O/heads (£s)	Total Cost per hour (£s)	No. of hours per Cat 1 Dir App	No. of hours per Cat 2 Dir App	No. of hours per Cat 3 Dir App	Cost per Cat 1 Dir App (£s)	Cost per Cat 2 Dir App (£s)	Cost per Cat 3 Dir App (£s)	Overall Costs for Cat 1 Dir Apps per year (£s)	Overall Costs for Cat 2 Dir Apps per year (£s)	Overall Costs for Cat 3 Dir Apps per year (£s)	Total Costs of Dir Apps per year (Cats 1 + 2 + 3) (£s)	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)
2017	127	15	75	217	58	17	75	45	37	42	3,375	2,775	3,150	428,625	41,625	236,250	706,500	70,650	105,975	141,300
2018	123	15	75	213	58	17	75	45	37	42	3,375	2,775	3,150	415,125	41,625	236,250	693,000	69,300	103,950	138,600
2019	119	15	75	209	58	17	75	45	37	42	3,375	2,775	3,150	401,625	41,625	236,250	679,500	67,950	101,925	135,900
2020	115	14	72	201	58	17	75	45	37	42	3,375	2,775	3,150	388,125	38,850	226,800	653,775	65,378	98,066	130,755
2021	111	14	72	197	58	17	75	45	37	42	3,375	2,775	3,150	374,625	38,850	226,800	640,275	64,028	96,041	128,055
2022	107	14	72	193	58	17	75	45	37	42	3,375	2,775	3,150	361,125	38,850	226,800	626,775	62,678	94,016	125,355
2023	103	13	69	185	58	17	75	45	37	42	3,375	2,775	3,150	347,625	36,075	217,350	601,050	60,105	90,158	120,210
2024	99	13	69	181	58	17	75	45	37	42	3,375	2,775	3,150	334,125	36,075	217,350	587,550	58,755	88,133	117,510
2025	95	13	69	177	58	17	75	45	37	42	3,375	2,775	3,150	320,625	36,075	217,350	574,050	57,405	86,108	114,810
2026	91	13	69	173	58	17	75	45	37	42	3,375	2,775	3,150	307,125	36,075	217,350	560,550	56,055	84,083	112,110
<b>Overall Savings to the Offshore Sector over years 2017 to 2026</b>																	<b>632,303</b>	<b>948,454</b>	<b>1,264,605</b>	



**(iii) High-Range Savings**

**Preparation / submission by Offshore Project Developers (Environmental Manager) of Applications for Directions that no ES needs to be prepared between 2017 and 2026 (based on 220 applications in 2017 reducing to 176 in 2026) - Covering extant (EIA) requirements that will still apply after transposition of the revised EIA Directive**

Years	Av No of Cat 1 Dir Apps per year	Av No. of Cat 2 Dir Apps per year	Av No. of Cat 3 Dir Apps per year	Av Total of Dir Apps per year	Cost per hour (£s)	Plus 30% O/heads (£s)	Total Cost per hour (£s)	No. of hours per Cat 1 Dir App	No. of hours per Cat 2 Dir App	No. of hours per Cat 3 Dir App	Cost per Cat 1 Dir App (£s)	Cost per Cat 2 Dir App (£s)	Cost per Cat 3 Dir App (£s)	Overall Costs for Cat 1 Dir Apps per year (£s)	Overall Costs for Cat 2 Dir Apps per year (£s)	Overall Costs for Cat 3 Dir Apps per year (£s)	Total Costs of Dir Apps per year (Cats 1 + 2 + 3) (£s)	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)
2017	128	16	76	220	58	17	75	45	37	42	3,375	2,775	3,150	432,000	44,400	239,400	715,800	71,580	107,370	143,160
2018	124	16	76	216	58	17	75	45	37	42	3,375	2,775	3,150	418,500	44,400	239,400	702,300	70,230	105,345	140,460
2019	120	16	76	212	58	17	75	45	37	42	3,375	2,775	3,150	405,000	44,400	239,400	688,800	68,880	103,320	137,760
2020	116	15	73	204	58	17	75	45	37	42	3,375	2,775	3,150	391,500	41,625	229,950	663,075	66,308	99,461	132,615
2021	112	15	73	200	58	17	75	45	37	42	3,375	2,775	3,150	378,000	41,625	229,950	649,575	64,958	97,436	129,915
2022	108	15	73	196	58	17	75	45	37	42	3,375	2,775	3,150	364,500	41,625	229,950	636,075	63,608	95,411	127,215
2023	104	14	70	188	58	17	75	45	37	42	3,375	2,775	3,150	351,000	38,850	220,500	610,350	61,035	91,553	122,070
2024	100	14	70	184	58	17	75	45	37	42	3,375	2,775	3,150	337,500	38,850	220,500	596,850	59,685	89,528	119,370
2025	96	14	70	180	58	17	75	45	37	42	3,375	2,775	3,150	324,000	38,850	220,500	583,350	58,335	87,503	116,670
2026	92	14	70	176	58	17	75	45	37	42	3,375	2,775	3,150	310,500	38,850	220,500	569,850	56,985	85,478	113,970
<b>Overall Savings to the Offshore Sector over years 2017 to 2026</b>																	<b>641,603</b>	<b>962,404</b>	<b>1,283,205</b>	



**ANNEX E**

**SAVINGS (UNDISCOUNTED) TO THE ONSHORE SECTOR**

**Section 1 - Consent applications supported by Environmental Statements (ESs)**

**(i) Low-Range Savings - Two Consent Applications with Environmental Statements (ESs) submitted in 2021 (1 ES) and 2026 (1 ES) - - Covering extant (EIA) requirements that will still apply after transposition of the revised EIA Directive**

Preparation of one out of two Consent Applications with ESs by an Onshore project developer (Environmental Manager) in 2021

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per ES (£s)	Total Costs for 1 ES (£s)	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)
2021 (Pipe-line Works Project)	1	58	17	75	150	11,250	11,250	1,125	1,688	2,250
							<b>Savings to the Onshore Sector in 2021</b>	<b>1,125</b>	<b>1,688</b>	<b>2,250</b>

Preparation of one out of two Consent Applications with ESs by a Consultant in 2026

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per ES (£s)	Total Costs for 1 ES (£s)	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)
2026 (Public Gas Transporter Pipe-line Project)	1	77	23	100	150	15,000	15,000	1,500	2,250	3,000
							<b>Savings to the Onshore Sector in 2026</b>	<b>1,500</b>	<b>2,250</b>	<b>3,000</b>

**Overall Savings to the Onshore Sector:**      **£2,625**      **£3,938**      **£5,250**





**(ii) Medium-Range Savings - Three Consent Applications with Environmental Statements (ESs) submitted in 2021 (1 ES) and 2026 (2 ESs) - Covering extant (EIA) requirements that will still apply after transposition of the revised EIA Directive**

Preparation of two out of three Consent Applications with ESs by an Onshore project developer (Environmental Manager) in 2021 and 2026

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per ES (£s)	Total Costs for 2 ES (£s)	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)	
2021 (Pipe-line Works Project)	1	58	17	75	150	11,250	11,250	1,125	1,688	2,250	
2026 (Public Gas Transporter Pipe-line Project)	1	58	17	75	150	11,250	11,250	1,125	1,688	2,250	
								Savings to the Onshore Sector in 2021 and 2026	2,250	3,376	4,500

Preparation of one out of three Consent Applications with ESs by Consultants in 2026

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per ES (£s)	Total Cost for 1 ES (£s)	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)	
2026 (Public Gas Transporter Pipe-line Project)	1	77	23	100	150	15,000	15,000	1,500	2,250	3,000	
								Savings to the Onshore Sector in 2026	1,500	2,250	3,000

**Overall Savings to the Onshore Sector:**      **£3,750**      **£5,626**      **£7,500**



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(iii) **High-Range Savings - Four Consent Applications with Environmental Statements (ESs) submitted in 2021 (2 ESs) and 2026 (2 ESs) - Covering extant (EIA) requirements that will still apply after transposition of the revised EIA Directive**

Preparation of two out of four Consent Applications with ESs by an Onshore project developer (Environmental Manager) in 2021 and 2026

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per ES (£s)	Total Costs for 2 ESs (£s)	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)
2021 (Pipe-line Works Project)	1	58	17	75	150	11,250	11,250	1,125	1,688	2,250
2026 (Public Gas Transporter Pipe-line Project)	1	58	17	75	150	11,250	11,250	1,125	1,688	2,250
							<b>Savings to the Onshore Sector in 2021 and 2026</b>	<b>2,250</b>	<b>3,376</b>	<b>4,500</b>

Preparation of two out of four Consent Applications with ESs by Consultants in 2021 and 2026

Years	No. of ESs per year	Cost per hour (£s)	Plus 30% Overheads (£s)	Total Cost per hour (£s)	No of hours per ES	Cost per ES (£s)	Total Costs for 2 ESs (£s)	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)
2021 (Pipe-line Works Project)	1	77	23	100	150	15,000	15,000	1,500	2,250	3,000
2026 (Public Gas Transporter Pipe-line Project)	1	77	23	100	150	15,000	15,000	1,500	2,250	3,000
							<b>Savings to the Onshore Sector in 2021 and 2026</b>	<b>3,000</b>	<b>4,500</b>	<b>6,000</b>

**Overall Savings to the Onshore Sector: £5,250      £7,876      £10,500**



**Section 2 - Direction applications (that no ES required)**

**(i) Low-Range Savings**

**Preparation / submission by Onshore Project Developers (Environmental Manager) of 22 Applications per year for Directions that no ES needs to be prepared between 2017 and 2026 - Covering extant (EIA) requirements that will still apply after transposition of the revised EIA Directive**

Years	Average number of Direction Applications for new, or extensions to existing, Pipelines per year	Cost per hour (£s)	Plus 30% Overhead s (£s)	Total Cost per hour (£s)	No of hours per Direction Application	Cost per Direction Application (£s)	Total Costs per year (£s)	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)
2017	22	58	17	75	42	3,150	69,300	6,930	10,395	13,860
2018	22	58	17	75	42	3,150	69,300	6,930	10,395	13,860
2019	22	58	17	75	42	3,150	69,300	6,930	10,395	13,860
2020	22	58	17	75	42	3,150	69,300	6,930	10,395	13,860
2021	22	58	17	75	42	3,150	69,300	6,930	10,395	13,860
2022	22	58	17	75	42	3,150	69,300	6,930	10,395	13,860
2023	22	58	17	75	42	3,150	69,300	6,930	10,395	13,860
2024	22	58	17	75	42	3,150	69,300	6,930	10,395	13,860
2025	22	58	17	75	42	3,150	69,300	6,930	10,395	13,860
2026	22	58	17	75	42	3,150	69,300	6,930	10,395	13,860
							<b>Overall Savings to the Onshore Sector over years 2017 to 2026</b>	<b>69,300</b>	<b>103,950</b>	<b>138,600</b>



**(ii) Medium-Range Savings**

**Preparation / submission by Onshore Project Developers (Environmental Manager) of 23 Applications per year for Directions that no ES needs to be prepared between 2017 and 2026 - Covering extant (EIA) requirements that will still apply after transposition of the revised EIA Directive**

Years	Average number of Direction Applications for new, or extensions to existing, Pipelines per year	Cost per hour (£s)	Plus 30% Overhead s (£s)	Total Cost per hour (£s)	No of hours per Direction Application	Cost per Direction Application (£s)	Total Costs per year (£s)	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)
2017	23	58	17	75	42	3,150	72,450	7,245	10,868	14,490
2018	23	58	17	75	42	3,150	72,450	7,245	10,868	14,490
2019	23	58	17	75	42	3,150	72,450	7,245	10,868	14,490
2020	23	58	17	75	42	3,150	72,450	7,245	10,868	14,490
2021	23	58	17	75	42	3,150	72,450	7,245	10,868	14,490
2022	23	58	17	75	42	3,150	72,450	7,245	10,868	14,490
2023	23	58	17	75	42	3,150	72,450	7,245	10,868	14,490
2024	23	58	17	75	42	3,150	72,450	7,245	10,868	14,490
2025	23	58	17	75	42	3,150	72,450	7,245	10,868	14,490
2026	23	58	17	75	42	3,150	72,450	7,245	10,868	14,490
							<b>Overall Savings to the Onshore Sector over years 2017 to 2026</b>	<b>72,450</b>	<b>108,680</b>	<b>144,900</b>



**(iii) High-Range Savings**

**Preparation / submission by Onshore Project Developers (Environmental Manager) of 24 Applications per year for Directions that no ES needs to be prepared between 2017 and 2026 - Covering extant (EIA) requirements that will still apply after transposition of the revised EIA Directive**

Years	Average number of Direction Applications for new, or extensions to existing, Pipelines per year	Cost per hour (£s)	Plus 30% Overhead s (£s)	Total Cost per hour (£s)	No of hours per Direction Application	Cost per Direction Application (£s)	Total Costs per year (£s)	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)
2017	24	58	17	75	42	3,150	75,600	7,560	11,340	15,120
2018	24	58	17	75	42	3,150	75,600	7,560	11,340	15,120
2019	24	58	17	75	42	3,150	75,600	7,560	11,340	15,120
2020	24	58	17	75	42	3,150	75,600	7,560	11,340	15,120
2021	24	58	17	75	42	3,150	75,600	7,560	11,340	15,120
2022	24	58	17	75	42	3,150	75,600	7,560	11,340	15,120
2023	24	58	17	75	42	3,150	75,600	7,560	11,340	15,120
2024	24	58	17	75	42	3,150	75,600	7,560	11,340	15,120
2025	24	58	17	75	42	3,150	75,600	7,560	11,340	15,120
2026	24	58	17	75	42	3,150	75,600	7,560	11,340	15,120
							<b>Overall Savings to the Onshore Sector over years 2017 to 2026</b>	<b>75,600</b>	<b>113,400</b>	<b>151,200</b>



**ANNEX F**

**OVERALL SAVINGS (UNDISCOUNTED) TO THE OFFSHORE AND ONSHORE SECTORS**

**(i) Low-Range Savings Scenario (combined for both sectors)**

Years	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)
2017	80,400	120,600	160,800
2018	79,050	118,575	158,100
2019	77,700	116,550	155,400
2020	75,128	112,691	150,255
2021	74,903	112,354	149,805
2022	72,428	108,641	144,855
2023	69,855	104,783	139,710
2024	68,505	102,758	137,010
2025	67,155	100,733	134,310
2026	67,305	100,958	134,610
<b>Totals</b>	<b>732,428</b>	<b>1,098,641</b>	<b>1,464,855</b>

**(ii) Medium-Range Savings Scenario (combined for both sectors)**

Years	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)
2017	83,145	124,718	166,290
2018	81,795	122,693	163,590
2019	80,445	120,668	160,890
2020	77,873	116,809	155,745
2021	77,648	116,471	155,295
2022	75,173	112,759	150,345
2023	72,600	108,900	145,200
2024	71,250	106,875	142,500
2025	69,900	104,850	139,800
2026	71,175	106,763	142,350
<b>Totals</b>	<b>761,003</b>	<b>1,141,506</b>	<b>1,522,005</b>



**(iii) High-Range Savings Scenario (combined for both sectors)**

Years	10% Savings per year (£s)	15% Savings per year (£s)	20% Savings per year (£s)
2017	85,515	128,273	171,030
2018	84,165	126,248	168,330
2019	82,815	124,223	165,630
2020	80,243	120,364	160,485
2021	81,518	122,276	163,035
2022	77,543	116,314	155,085
2023	74,970	112,455	149,940
2024	73,620	110,430	147,240
2025	72,270	108,405	144,540
2026	73,545	110,318	147,090
<b>Totals</b>	<b>786,203</b>	<b>1,179,306</b>	<b>1,572,405</b>



**ANNEX G**

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STATUTORY INSTRUMENTS

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**2017 No. 0000**

**ENVIRONMENTAL PROTECTION**

**The Offshore Production and Pipe-lines (Environmental Impact Assessment) (Amendment) Regulations 2017**

<i>Made</i>	- - - -	<i>00th April 2017</i>
<i>Laid before Parliament</i>		<i>00th April 2017</i>
<i>Coming into force</i>	- -	<i>16th May 2017</i>

The Secretary of State has been designated<sup>(8)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(9)</sup> in relation to measures relating to the requirement for an assessment of the impact of the environment on projects likely to have significant effects on the environment.

In exercise of the powers conferred upon him by section 2(2) of that Act, and also by section 56(1) and (2) of the Finance Act 1973<sup>(10)</sup> and with the consent of the Treasury, he makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Offshore Production and Pipe-lines (Environment Impact Assessment) (Amendment) Regulations 2017 and shall come into force on 16th May 2017.

**Interpretation**

2. In these Regulations—

“the 1999 Offshore Regulations” means the Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999;<sup>(11)</sup>

“the 1999 Pipe-line Regulations” means the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999;<sup>(12)</sup> and

“the 2000 Regulations” means the Pipe-line Works (Environmental Impact Assessment) Regulations 2000.<sup>(13)</sup>

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<sup>(8)</sup> S.I. 2008/301.

<sup>(9)</sup> 1972 c.68; section 2 is amended by section 27(1) of the Legislative and Regulatory Reform Act 2009 (c.51).

<sup>(10)</sup> 1973 c.51. The consent of HM Treasury is required to make regulations under section 56(1) of the Finance Act 1973.

<sup>(11)</sup> S.I. 1999/360; this instrument is amended by S.I. 2007/933, S.I. 2015/1431 and S.I. 2016/912 and was modified by S.I. 2010/1513 (these amending regulations remove the need for the modification by implementing the modifications as amendments).

<sup>(12)</sup> S.I. 1999/1672; this instrument is amended by S.I. 2007/1996.

<sup>(13)</sup> S.I. 2000/1928; this instrument is amended by S.I. 2007/1992.





## PART 1

### Amendment of the 1999 Offshore Regulations

3. The 1999 Offshore Regulations are amended as follows.

4. In the 1999 Offshore Regulations, for “4 weeks”, where ever it occurs, substitute “30 days”.

5. In regulation 3 (interpretation)—

(a) in paragraph (1)—

(i) after the definition of “the 1998 Act”, insert—

““the 2008 Act” means the Energy Act 2008<sup>(14)</sup>”;

(ii) for the definition of “appropriate particulars”, substitute—

““appropriate particulars” means the name and address of the undertaker and a description of the relevant project which—

(a) includes—

(i) the physical characteristics of the whole project, and where relevant, of demolition works;

(ii) the location of the project with particular regard to the environmental sensitivity of the geographical areas likely to be affected by the project;

(iii) the aspects of the environment likely to be significantly affected by the project;

(iv) any likely significant effects, to the extent of the information available on such effects, of the project on the environment resulting from—

(aa) the expected residues and emissions and the production of waste, where relevant; and

(bb) the use of natural resources, in particular soil, land, water and biodiversity,

and the matters set out in Schedule 1 and the results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Directive shall, where relevant, be taken into account when compiling this information; and

(b) may also include any features of the project or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment;”;

(iii) after the definition of “business day”, insert—

““combustible gas” means gas within the meaning of section 2(4) of the 2008 Act;”;

(iv) in the definition of “consent”—

(aa) at the end of sub-paragraph (b)(iv), omit “or” and after sub-paragraph (b)(v), insert—

“(vi) any consent required by or under a licence to the carrying on of a storage or unloading activity;” and

(bb) for sub-paragraph (d), substitute—

“(d) in relation to any relevant project comprising the use of a mobile installation for—

(i) the extraction of petroleum where the principle purpose of the extraction is the testing of any well; or

(ii) the purpose of carrying out test injections of carbon dioxide or combustible gas

,  
any consent required under regulation 4(4)(b) or (c) below;”;

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<sup>(14)</sup> 2008 c.32.



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- (v) for the definition of “development”, substitute—  
““development” means either—
- (a) any project which has as its main object the getting of petroleum as opposed to the establishment of its existence, the appraisal of its quantity, characteristics or quality or the characteristics or extent of any reservoir in which it occurs; or
  - (b) any project which has as its main object a storage or unloading activity;”;
- (vi) for the definition of “the Directive”, substitute—  
““the Directive” means Council Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment<sup>(15)</sup>;”;
- (vii) for the definition of “environmental statement”, substitute—  
““environmental impact assessment” means the process described in regulation 3A(1) (environmental impact assessment);  
“environmental statement” has the meaning set out in regulation 3B (environmental statement);”  
;
- (viii) for the definition of “licence”, substitute—  
““licence” means—
- (a) a licence granted or having effect as if granted under section 3 of the 1998 Act (licences to search and bore for and get petroleum); or
  - (b) a licence granted under section 4 or section 18 of the 2008 Act<sup>(16)</sup>;
- and “licensee” shall be construed accordingly.”
- (ix) after the definition of “licence”, insert—  
““monitoring condition” means a measure to monitor conditions imposed on a decision envisaged to avoid, prevent, or reduce or offset significant adverse effects on the environment;”;
- (x) in the definition of “relevant project”, omit the “or” at the end of sub-paragraph (c), and insert—  
“or (e) the use of a mobile installation for the purposes of carrying out test injections of carbon dioxide or combustible gas;”;
- (xi) after the definition of “relevant requirement”, insert—  
““storage or unloading activity” means any activity within—
- (a) section 2(3)(a) to (d), or
  - (b) section 17(2)(a) or (b),
- of the 2008 Act;”;
- (xii) for the definition of “structure”, substitute—  
““structure” means any structure which is intended to be permanent and is not designed to be moved from place to place without major dismantling and is used for, or as the case may be is to be used, for the purpose of—
- (a) getting petroleum or conveying petroleum to land (including any structure for the storage of petroleum) but is not to be used only for searching for petroleum; or
  - (b) a storage or unloading activity, or for conveying carbon dioxide or combustible gas to or from land;”;
- (xiii) for the definition of “well”, substitute—  
““well” means any well or borehole drilled for the purposes of, or in connection with—

<sup>(15)</sup> OJ L 26 28.1.2012 p1.

<sup>(16)</sup> Section 4 is amended by the Energy Act 2016 (c. 20) and section 18 is amended by that act and by SI 2011/2453 and SSI 2011/224.



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- (a) the getting of petroleum, the exploration for petroleum or the establishment of the existence of, or appraisal of, the quantity, characteristics or quality of, petroleum in a particular location; or
  - (b) activities within section 2(3) or section 17(2) of the 2008 Act, but does not include any well drilled in connection with any of the activities above to a depth of 350 metres or less below the surface of the sea bed for the purpose of obtaining geological information about strata or any drilling operation, the main purpose of which is the testing of the stability of the seabed.”; and
- (b) after paragraph (2), insert—
- “(3) References in this regulation to the conveyance of petroleum include a reference to the conveyance of—
- (a) carbon dioxide; or
  - (b) combustible gas.
- (4) Expressions used both in these Regulations and in the Directive have the same meaning unless otherwise stated.”.

6. After regulation 3, insert—

**“Environmental impact assessment**

**3A.**—(1) In these Regulations, the “environmental impact assessment” is the process consisting of—

- (a) the preparation and submission of an environmental statement as part of the application for consent referred to in regulation 5 (agreement of Secretary of State in respect of relevant projects) or under a requirement to submit proposals under regulation 11 (exercise by OGA of powers under licences);
- (b) the carrying out of the consultations referred to in regulation 9 (procedure on receipt of application etc.) and regulation 11 and, where relevant, regulation 12 (projects affecting other states);
- (c) the Secretary of State’s consideration of the information presented in the environmental statement, any supplementary information provided in accordance with regulation 10 (provision to the Secretary of State of further information etc.) and any representations or opinions received as the result of the consultations referred to in sub-paragraph (b);
- (d) the Secretary of State’s reasoned conclusion as required by regulation 5A (decision whether agreement is to be given) or regulation 11(7A); and
- (e) the integration of that conclusion into the decision as to whether agreement to the grant of consent is to be given as required by regulation 5A(1)(c) or agreement in respect of the matters referred to in regulation 11(7A)(1)(c).

(2) The process described in paragraph (1) shall identify, describe and assess in an appropriate manner, for each relevant project, the direct and indirect significant effects of that project on the following factors—

- (a) population and human health;
- (b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC<sup>(17)</sup> and Directive 2009/147/EC<sup>(18)</sup>;
- (c) land, soil, water, air and climate;
- (d) material assets, cultural heritage and the landscape; and

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<sup>(17)</sup> OJ L 206 22.7.92 p.7.

<sup>(18)</sup> OJ L 20 26.1.2010. p.7.



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- (e) the interaction between the factors referred to in points (a) to (d),

including the operational effects of the relevant project (where the project will have operational effects) and the expected effects deriving from the vulnerability of the project to risks of major accidents or disasters that are relevant to the project concerned.

**Environmental statement**

**3B.—**(1) In these Regulations, an “environmental statement” means the report prepared as part of the environmental impact assessment in respect of a relevant project which includes—

- (a) a description of the project comprising information on the site, design, size and other relevant features of the project;
- (b) a description of the likely significant effects of the project on the environment;
- (c) a description of the features of the project or measures envisaged in order to avoid, prevent or reduce, and if possible, offset likely significant adverse effects on the environment;
- (d) a description of the reasonable alternatives studied by the undertaker which are relevant to the project and its specific characteristics and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment; and
- (e) a non-technical summary of the information referred to in sub-paragraphs (a) to (d) above.

(2) The environmental statement shall also include—

- (a) any additional information set out in Schedule 2 (information for the environmental statement) to these Regulations relevant to the specific characteristics of the particular relevant project or type of project and to the environmental features likely to be affected, and
- (b) shall take into account any available results of other relevant environmental assessments under European Union or United Kingdom legislation, and

where regulation 7 (opinion by the Secretary of State as to content of environmental statement) applies, the statement shall be based on that opinion and include the information that may be reasonably required for reaching a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment.

(3) In completing the environmental statement, the undertaker shall ensure that the statement is prepared by a person with expert knowledge as to the matters contained within Schedule 2.

(4) For the purposes of the regulations as they apply in respect of relevant projects for which licences are granted under section 18 of the 2008 Act, or related consents—

- (a) in regulations 6 to 8, any reference to an environmental statement is to an environmental statement prepared for the purposes of the Regulations; and
- (b) in regulation 12, any reference to a relevant project is to a relevant project in respect of which such an environmental statement is required to be prepared.”.

**7.** In regulation 4 (requirements as to contents of licences etc.)—

- (a) at the end of paragraph (2)(c), omit the full stop and insert—

“; and

- (d) the carrying on of a storage or unloading activity wholly or partly in the relevant area.”; and

- (b) in paragraph (4)(a), omit the “or” and at the end of paragraph (4)(b), omit the full stop and insert—

“; or

- (c) use any mobile installation for the purpose of carrying out test injections of carbon dioxide or combustible gas.”.



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8. In regulation 5 (agreement of Secretary of State in respect of relevant projects)—

(a) after paragraph (1), insert—

“(1A) Where in relation to a relevant project there is, in addition to the requirement for an environmental statement to be prepared in accordance with these Regulations, also a requirement to carry out a Habitats Regulation Assessment, the Secretary of State must where appropriate ensure that the preparation of that assessment and the environmental statement are coordinated.”;

(b) for paragraph (2A), substitute—

“(2A) This paragraph applies to any application for a renewal of a consent to—

(a) the getting of petroleum in relation to a relevant project (other than as a by-product of the drilling or testing of a well); or

(b) the carrying on of a storage or unloading activity,

where the Secretary of State has decided that, having regard to the matters set out in Schedule 1 to these Regulations, the operation in respect of which the renewal is sought would not be likely to have a significant effect on the environment and that no environmental statement need be prepared in respect of that project.”; and

(c) for paragraph (4), substitute—

“(4) Where an application for consent in respect of a relevant project is accompanied by an environmental statement, the Secretary of State shall not make the decision in regulation 5A(1)(c) unless satisfied that the requirements of regulations 9 and 10 (requirements as to consultation and publicity) have been substantially met, and in doing so, shall ensure that, where necessary, advice has been obtained from persons with appropriate expert knowledge who have examined the statement.”

(d) in paragraph (5)—

(i) for “member State”, wherever it occurs, substitute “EEA state”;

(ii) for “agree to the grant of consent”, substitute “make the decision referred to in regulation 5A(1)(c)”;

(iii) in sub-paragraph (c)(i), after “responsibilities”, insert “or local or regional competence”;

(iv) at the end of sub-paragraph (d), omit the full stop and insert “and in respect of those members of the public, that the Secretary of State is satisfied that they have had at least 30 days to consider the environmental statement.”;

(e) omit paragraphs (7) to (9);

(f) for paragraph (10)(b), substitute—

“(b) on a public website.”; and

(g) after paragraph (10), insert—

“(11A) In this regulation, a “Habitats Regulation Assessment” means an assessment made under either regulation 5 of the Offshore Petroleum Activities (Conservation of Habitats) Regulations 2001<sup>(19)</sup>, or regulation 25 of the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007<sup>(20)</sup>.”.

9. After regulation 5, insert—

**“Decision as to whether agreement is to be given**

**5A.—**(1) When making the decision as to whether to agree to the grant of consent in relation to a relevant project for which an environmental statement has been submitted, the Secretary of State must—

<sup>(19)</sup> S.I. 2001/1754; regulation 5 is amended by S.I. 2016/912.

<sup>(20)</sup> S.I. 2007/1842; regulation 25 is amended by S.I. 2010/490, S.I. 2010/1513, S.I. 2013/755 and S.I. 2016/912.



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- (a) examine the environmental statement, including any further information provided under regulation 10, and any other information, any representations made by any person required by these Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effects of the project;
  - (b) reach a reasoned conclusion on the significant effects of the relevant project on the environment, taking into account the examination referred to in subparagraph (a); and
  - (c) integrate that conclusion into the decision as to whether agreement to the grant of consent is to be given.
- (2) If agreement to the grant of consent is to be given under paragraph (1)(c), the decision should set out—
- (a) any environmental conditions attached to the decision;
  - (b) any features of the relevant project designed or measures envisaged to avoid, reduce or prevent or if possible offset any significant adverse effect; and
  - (c) any monitoring conditions imposed.
- (3) If agreement is to be refused, the decision should state the main reasons for the refusal.
- (4) The reasoned conclusion referred to in paragraph (1)(b) must be up to date at the time that the decision referred to in paragraph (1)(c) is to be made, but that conclusion shall be taken to be up to date if, in the opinion of the Secretary of State, it addresses the significant effects that are likely to arise as a result of the relevant project.
- (5) When considering whether to impose a monitoring condition under paragraph (2)(c), the Secretary of State must—
- (a) consider whether to make provision for potential remedial action;
  - (b) consider whether there are appropriate existing monitoring arrangements under European Union legislation other than the Directive, or under national legislation, to make the imposition of a monitoring condition unnecessary; and
  - (c) take steps to ensure that the type of parameters to be monitored and the duration of the monitoring are proportionate to the nature, location and size of the proposed development and the significance of its effects on the environment.
- (6) The decision of the Secretary of State in paragraph (1)(c) must be taken within a reasonable period of time, taking into account the nature and complexity of the relevant project, from the date on which the Secretary of State has been provided with the information referred to in paragraph (1)(a).
- (7) The Secretary of State shall promptly publish a notice of his decision referred to in paragraph 1(c) in the Gazette and on a public website and shall send a copy of the notice to those authorities specified in the notice given to the undertaker in accordance with regulation 9(1).
- (8) A notice published under paragraph (7) shall—
- (a) set out—
    - (i) the contents of the decision and any conditions attached to the decision;
    - (ii) the main reasons and considerations on which the decision is based;
    - (iii) a summary of all representations made to the Secretary of State by any person in respect of the project in question, including where regulation 12 applies any representations made by an EEA State affected by the relevant project or the public concerned and authorities in that state, together with details of how those representations were taken into account; and
    - (iv) a description, where necessary, of any monitoring conditions imposed; and
  - (b) specify where details of these matters may be obtained and make them electronically available on the website referred to in paragraph (7)).



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(9) Where the Secretary of State publishes a notice in accordance with this regulation in respect of a relevant project, that notice shall be communicated together with the information referred to in paragraph (8)(a) above to any EEA State which has, pursuant to regulation 12 below (projects affecting other States), been provided with a copy of the environmental statement that accompanied the application for consent.”.

**10.** In regulation 6 (provisions as to directions that no environmental statement need be prepared)—

(a) at the beginning of paragraph (1) insert “Subject to paragraph (1B),”;

(b) after paragraph (1), insert—

“(1A) When making the direction referred to in paragraph (1), the Secretary of State shall, where proposed by the undertaker, include in the direction any features of the relevant project or measures to be taken envisaged to avoid or prevent significant adverse effects of the project on the environment.

(1B) Where the Secretary of State considers that a relevant project is highly likely to have a significant effect on the environment given the environmental sensitivity of the location of the project, the Secretary of State may direct that no application may be made under paragraph (1) in respect of that project and that an environmental statement is required before the Secretary of State can agree to the grant of a consent in respect of that project.

(1C) When giving a direction under paragraph (1B), the Secretary of State shall publish a notice of this direction in the Gazettes and by any means the Secretary of State considers appropriate, which shall include electronic communication and making the information available on a public website.”;

(c) in paragraph (2)(b), for “sub-paragraphs (a) to (d)”, substitute “sub-paragraphs (a) to (f)”;

(d) in paragraph (3)—

(i) after “under paragraph (1)”, insert “, (1B)”;

(ii) at the end of paragraph (3), omit the full stop and insert “and the results of preliminary verifications or assessments on the environment of the geographical areas likely to be affected by the relevant project carried out pursuant to European Union legislation other than the Directive.”;

(e) for paragraph (4), substitute—

“(4) An undertaker shall provide to the Secretary of State —

(a) such further information in relation to any application made by the undertaker under paragraph (1)(a) or (2) above; or

(b) where the circumstances described in paragraph (1B) apply, any information in respect of the relevant project,

as the Secretary of State may require.”;

(f) in paragraph (5)—

(i) at the end of paragraph (5)(c), omit the “or”;

(ii) in paragraph 5(d), for “member State” substitute “EEA State” and at the end of that sub-paragraph, omit the full stop and insert—

“; (e) to the carrying on or a storage or unloading activity; or

(f) to the erection of a structure in relation to a project which has as its main object a storage or unloading activity.”;

(g) after paragraph (10), insert—

“(10A) The Secretary of State shall make a decision in relation to an application referred to in paragraph (1) as soon as possible and in any event within 90 days of receiving the application containing the appropriate particulars, unless paragraph (10B) applies.



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(10B) Where an application referred to in paragraph (1) is for a relevant project that is an exceptional case, for example in relation to its nature, complexity, location or size, the Secretary of State may extend the time limit referred to in paragraph (10A) by notifying the undertaker in writing as to when the decision will be made and the reasons why the Secretary of State considers the extra time is needed.”.

(h) for paragraph (11), substitute—

“(11) Where the Secretary of State makes a decision in relation to any application referred to in paragraph 1, regulations 5A(7) and (8) shall apply in respect of such an application in the same way as they apply otherwise, but the main reasons and considerations on which the decision is based shall make reference to the relevant matters set out in Schedule 1.”.

**11. In regulation 7 (opinion by Secretary of State as to content of environmental statements)—**

(a) in paragraph (1), for “as to the matters to be included”, substitute “on the scope and level of detail to be included by the undertaker”;

(b) in paragraph (2), for sub-paragraph (a)(ii), substitute—

“(ii) any environmental authority or other authority which the Secretary of State considers would be likely to be interested in the relevant project by reason of either its particular environmental responsibilities or its local or regional competence;” and

(c) after paragraph (2) insert—

“(2A) When giving an opinion pursuant to paragraph (1), the Secretary of State shall take into account information contained in the appropriate particulars, particularly in respect of the specific characteristics of the project, including its location and technical capacity and its likely impact on the environment.”.

**12. In regulation 8 (obtaining of information for the preparation of environmental statements)—**

(a) in paragraph (2)—

(i) in sub-paragraph (b), after “environmental authority”, insert “or other authority with local or regional competence”;

(ii) in sub-paragraph (c), for “any environmental authority”, substitute “an authority referred to in sub-paragraph (b)”;

(b) in paragraph (3), omit “environmental”.

**13. In regulation 9 (procedure on receipt of application for consent etc.)—**

(a) in paragraph (1), for “environmental authorities” to the end, substitute “environmental authorities or other authorities which the Secretary of State considers would be likely to be interested in the relevant project by reason of either their particular environmental responsibilities or local or regional competence.”;

(b) in paragraph (2); omit “environmental”;

(c) for paragraph (2A)(b), substitute—

“(b) in such newspapers as the Secretary of State shall direct and on a public website and the undertaker shall publish electronic versions of the application for consent and the environmental statement on that website alongside the notice.”;

(d) at the end of paragraph (3), omit the full stop and insert “and also the address of the public website referred to in paragraph (2A)(b).”;

(e) in paragraph (4), for “environmental authority” substitute “authority notified to the undertaker under paragraph (1)”.

**14. In regulation 10 (provision to the Secretary of State of further information etc.)—**

(a) in paragraph (2)—

(i) for “main” substitute “significant”;





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- (ii) in sub-paragraph (a), for “environmental authority”, substitute “authority”;
  - (iii) at the end of sub-paragraph (c), omit the “and”; and
  - (iv) at the end of sub-paragraph (d), insert—  
“and
  - (e) publish on a public website the notice referred to in sub-paragraph (d) alongside an electronic version of the information referred to in sub-paragraph (a).”;
- (b) in paragraph (3), after “in which”, insert “, and also the address of the public website on which,”.

**15.** In regulation 11 (exercise by OGA of powers under licences)—

- (a) at the end of paragraph (1), insert “and regulation 5(1A) applies.”;
- (b) in paragraph (2)(b)(iii), for “member State”, substitute “EEA State”;
- (c) for paragraph (6), substitute—

“(6) The Secretary of State shall not make a decision under paragraph (7A) unless satisfied that the requirements of regulations (9) and (10), as they apply by virtue of paragraph (5), have been substantially met, and in doing so, the Secretary of State shall ensure that, where necessary, advice has been obtained from persons with appropriate expert knowledge who have examined the statement.”;

- (d) in paragraph (7)—
  - (i) for “member State” where ever it appears, substitute “EEA State”;
  - (ii) for “the Secretary of State shall not agree to” to “respect of that project”, substitute “the Secretary of State shall not make a decision under paragraph (7A)”;
  - (iii) at the end of paragraph (7)(d), omit the full stop and insert “and in respect of those members of the public, that the Secretary of State is satisfied that they have had at least 30 days to consider the environmental statement.”;
- (e) after paragraph (7), insert—

“(7A) When deciding whether to agree to proposals which entail the carrying out of a relevant project comprising a development or to the exercise of any power under a licence to require the carrying out of a relevant project, where in either case an environmental statement has been submitted, the Secretary of State must—

- (a) examine the environmental statement, including any further information and any other information, any representations made by any person required by these Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effects of that project;
- (b) reach a reasoned conclusion on the significant effects of that project on the environment, taking into account the examination referred to in subparagraph (a) and, where appropriate, their own supplementary examination; and
- (c) integrate that conclusion into the decision as to whether agreement is to be given.

(7B) If agreement is to be given under paragraph (7A)(c), the decision should set out—

- (a) any environmental conditions attached to the decision,
- (b) a description of any features of the relevant project or measures to be taken to avoid, prevent or reduce and if possible offset any significant adverse effects on the environment of the proposed development; and
- (c) any monitoring conditions imposed;

(7C) If consent is to be refused, the decision should state the main reasons for the refusal.

(7D) The reasoned conclusion referred to in paragraph (7A)(c) must be up to date at the time that the decision referred to in that paragraph is taken, but that conclusion shall be taken to be up to date



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if, in the opinion of the Secretary of State, it addresses the significant effects that are likely to arise as a result of the relevant project.

(7E) When considering whether to impose a monitoring condition under paragraph (7B)(c), the Secretary of State must—

- (a) consider whether to make provision for potential remedial action; and
- (b) take steps to ensure that the type of parameters to be monitored and the duration of the monitoring are proportionate to the nature, location and size of the proposed development and the significance of its effects on the environment.

(7F) The decision of the Secretary of State in paragraph (7A)(c) must be taken within a reasonable period of time, taking into account the nature and complexity of the relevant project, from the date on which the Secretary of State has been provided with the information referred to in paragraph (7A)(a).”;

(f) omit paragraph (8);

(g) for paragraph (9), substitute—

“(9) The Secretary of State shall promptly publish the relevant matters in the Gazettes and on a public website and shall send a copy of the relevant matters to those authorities specified in the notice served under regulation 9(1).”; and

(h) for paragraph (9A), substitute—

“(9A) For the purposes of paragraph (9), the “relevant matters” means—

- (a) either the decision referred to in paragraph (7A)(c), or the decision that an environmental statement is not to be required in connection with the giving of an approval or the imposition of a relevant requirement in accordance with paragraph (2), and
- (b) the notice setting out—
  - (i) the contents of the decision referred to in sub-paragraph (a) and any conditions attached to the decision, if any;
  - (ii) the main reasons and considerations on which the decision is based, making reference to the matters set out in Schedule 1;
  - (iii) a summary of all representations made to the Secretary of State by any person in respect of the project in question, if any, including where regulation 12 applies any representations made by an EEA State affected by the relevant project or the public concerned and authorities in that state, together with details of how those representations were taken into account; and
  - (iv) a description, where necessary, of any measure imposed in accordance with paragraph (7B)(b);

and the notice shall specify where details of the above may be obtained and these details shall also be made available electronically on the website referred to in paragraph (9).”.

**16.** In regulation 12 (projects affecting other states)—

- (a) for “member State”, substitute “EEA State” where ever it occurs;
- (b) at the end of paragraph (2)(c), omit the full stop and insert “including the address of the public website referred to in regulation 9(2A)(b).”; and
- (c) omit paragraph (3).

**17.** In regulation 12A (projects in other EEA States having a significant effect on the environment in the transboundary area)—

- (a) at the end of paragraph (1)(b), omit the full stop and insert “, such period to allow at least 30 days between the environmental statement becoming available to the public concerned and the deadline for the submission of their representations.”; and



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- (b) in paragraph (2)(a), omit “environmental authorities” to “responsibilities”, and substitute ““environmental authorities or other authorities which the Secretary of State considers would be likely to be interested in the relevant project by reason of either their particular environmental responsibilities or local or regional competence.”.

18. For regulation 13 (exempt projects), substitute—

**“Exempt projects**

13.—(1) The Secretary of State may direct that—

- (a) these Regulations do not apply in relation to a relevant project if the project comprises or forms part of a project—
- (i) having national defence as its sole purpose, or
  - (ii) having the response to a civil emergency as its sole purpose,
- and in the opinion of the Secretary of State compliance with these Regulations would have an adverse effect on that purpose; or
- (b) subject to paragraph (3), a relevant project shall be exempt in whole or in part from the requirements of these Regulations if exceptional circumstances exist such that the application of all or some of the provisions of these Regulations would adversely affect the purpose of the relevant project.

(2) Where a direction is given under paragraph (1) the Secretary of State must send a copy of any such direction to the OGA.

(3) The Secretary of State may only give a direction under paragraph (1)(b) if satisfied that—

- (a) the carrying out of that project is not likely to have a significant effect on the environment of any other EEA State; and
- (b) there are actions to be taken in respect of the relevant project to ensure a high level of protection of the environment and of human health,

and that the Secretary of State has informed the Commission of the European Union of the reasons justifying the exemption to be granted and has provided it with details of the information to be made available to the public pursuant to paragraph (4).

(4) A direction given by the Secretary of State under paragraph (1)(b) may disapply such provisions of the Regulations as may in the circumstances appear to the Secretary of State to be appropriate and shall—

- (a) require the carrying out of such form of assessment as the Secretary of State considers appropriate in order to ensure a high level of protection of the environment and of human health;
- (b) require that all information relating to the main effects the project is likely to have on the environment collected pursuant to sub-paragraph (a) is to be made available to the public and specify the manner in which it is to be made available;
- (c) specify the extent to which these Regulations are to apply or that they are not going to apply at all; and
- (d) include a statement of the Secretary of State’s reasons for giving the direction and the information on which that decision is based.

(5) The Secretary of State shall publish details of any direction made under paragraph 1(b) above

- (a) in the Gazettes together with information as to how the public concerned may obtain a copy of the direction; and
- (b) on a public website together with an electronic version of the direction.”.



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19. In regulation 17A (fees), in paragraph (1)—

(a) for sub-paragraph (b), substitute—

“(b) considering, accepting or rejecting an environmental statement submitted under regulation 5, making a determination as to whether to agree to the grant of consent under regulation 5A(1) or agreeing to proposals under regulation 11(7A);” and

(b) in sub-paragraph (n), after “environmental authority”, insert “or other authority interested in the relevant project by reason of their local or regional competence”.

**Amendment of Schedule 1 (matters to be taken into account in deciding whether relevant project likely to have a significant effect on the environment)**

20. For Schedule 1 to the 1999 Offshore Regulations, substitute the schedule that is set out in Schedule 1 to these Regulations.

**Amendment of Schedule 2 (contents of environmental statement)**

21. For Schedule 2 to the 1999 Offshore Regulations, substitute the schedule that is set out in Schedule 2 to these Regulations.

**Transitional provisions, savings and repeals in respect of the 1999 Offshore Regulations**

22.—(1) Nothing in these Regulations shall affect the continued application of the 1999 Offshore Regulations in relation to—

(a) any application for consent or any application for the agreement of the Secretary of State referred to in regulation 5(A1) or 5(1);

(b) any application for a direction made under regulation 6(1) or (2);

(c) any request for the agreement of the Secretary of State to allow the OGA to exercise powers under a licence as referred to in regulation 11(3A);

(d) any application for a direction for exemption under regulation 13,

received by the OGA or by the Secretary of State before these Regulations come into force.

(2) Where in respect of a relevant project, any of the matters set out in paragraph (3) have not been carried out or concluded before these Regulations come into force, the 1999 Offshore Regulations as unamended by these Regulations shall continue to have effect for the purpose of carrying out or concluding that matter.

(3) The matters referred to in paragraph (2) are—

(a) provision of the Secretary of State’s opinion under regulation 7;

(b) the provision of information under regulation 8;

(c) the procedure on receipt of application as set out in regulation 9;

(d) notice to provide further information under regulation 10;

(e) provision of information affecting other states under regulation 12;

(f) consultation with EEA States under regulation 12A;

(g) applications to court under regulation 16 (application to court by person aggrieved) or 17 (application to the court by Secretary of State) or an appeal in respect of such an application; and

(h) proceedings in respect of an offence under regulation 18.

(4) Article 2 to the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010<sup>(21)</sup> is repealed by these Regulations.

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<sup>(21)</sup> S.I. 2010/1513.



## PART 2

### Amendment of the 1999 Pipe-line Regulations

23. The 1999 Pipe-line Regulations are amended as follows.

24. In the 1999 Pipe-line Regulations, for “four weeks”, “4 weeks” or “28 days”, wherever each expression occurs, substitute “30 days”.

25. In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) for the definition of—

(aa) “the 1999 Scottish EIA Regulations” substitute [ ]

(bb) “the 1992 Order”, substitute [ ]

(cc) “the 1995 Order”, substitute [ ] and

(dd) “the 2016 EIA Regulations” substitute [ ];

(ii) for the definition of “appropriate particulars”, substitute—

““appropriate particulars” means, in relation to a request for an environmental determination or a request under regulation 7(1) (pre-application opinion on content of environmental statement), the name and address of the developer and a description of the proposed pipe-line works which—

(a) includes—

(i) the physical characteristics of the works, and where relevant, of demolition works;

(ii) the location of the works with particular regard to the environmental sensitivity of the geographical areas likely to be affected by the works;

(iii) the aspects of the environment likely to be significantly affected by the works;

(iv) any likely significant effects, to the extent of the information available on such effects, of the works on the environment resulting from—

(aa) the expected residues and emissions and the production of waste, where relevant; and

(bb) the use of natural resources, in particular soil, land, water and biodiversity;

and the matters set out in Schedule 2 (matters to be taken into account in making an environmental determination etc.) and the results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Directive shall, where relevant, be taken into account when compiling this information; and

(b) may also include any features of the proposed pipe-line works or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment;”;

(iii) after the definition of “the consultation bodies”, insert—

““the Directive” means Council Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment;”;

(iv) omit the definition of “environmental statement”, and insert—

““environmental impact assessment” means the process described in regulation 2A(1) (environmental impact assessment);

“environmental statement has the meaning set out in regulation 2B;”;

(v) in the definition of “sensitive area”—

(aa) for sub-paragraph (h), substitute—



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“(h) an area of outstanding natural beauty designated as such by an order made under section 82 (designation of areas) of the Countryside and Rights of Way Act 2000;<sup>(22)</sup>”; and

(bb) at the end of sub-paragraph (i), add “or, as the case may be, regulation 8 of the Conservation of Habitats and Species Regulations 2010”;

(b) after paragraph (2), insert—

“(3) Expressions used both in these Regulations and in the Directive have the same meaning unless otherwise stated.”

26. After regulation 2, insert—

**“Environmental impact assessment**

**2A.**—(1) In these Regulations, the “environmental impact assessment” is the process consisting of—

- (a) the preparation and submission of an environmental statement by a public gas transporter;
- (b) the carrying out of the consultations referred to in regulations 9 (provision of information), 10 (publicity for environmental statements); 11 (further information and evidence respecting environmental statements); 11A (additional information and publicity) and 13 (projects affecting other states);
- (c) the Secretary of State’s consideration of the information presented in the environmental statement, any further information or additional information provided in accordance with regulation 11 or 11A, and any representations or opinions received as the result of the consultations referred to in sub-paragraph (b);
- (d) the Secretary of State’s reasoned conclusion as required by regulation 14(1); and
- (e) the integration of that conclusion into the decision as to whether the grant of consent is to be given as required by regulation 14(1).

(2) The process described in paragraph (1) shall identify, describe and assess in an appropriate manner, for each proposed pipe-line works, the direct and indirect significant effects of those works on the following factors—

- (a) population and human health;
- (b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;
- (c) land, soil, water, air and climate;
- (d) material assets, cultural heritage and the landscape; and
- (e) the interaction between the factors referred to in sub-paragraphs (a) to (d),

including the operational effects of the proposed pipe-line works (where such works will have operational effects) and the expected effects deriving from the vulnerability of the works to risks of major accidents or disasters that are relevant to the works concerned.

**Environmental statement**

**2B.**—(1) In these Regulations, an “environmental statement” means the report prepared in respect of proposed pipe-line works which includes—

- (a) a description of the works comprising information on the location, design, size and other relevant features of the works;
- (b) a description of the likely significant effects of the works on the environment;

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<sup>(22)</sup> 2000 c. 37.



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- (c) a description of the features of the works or measures envisaged in order to avoid, prevent or reduce, and if possible, offset likely significant adverse effects on the environment;
- (d) a description of the reasonable alternatives studied by the developer which are relevant to the works and their specific characteristics and an indication of the main reasons for the option chosen, taking into account the effects of the works on the environment; and
- (e) a non-technical summary of the information referred to in sub-paragraphs (a) to (d) above.

(2) The environmental statement shall —

- (a) also include any additional information set out in Schedule 1 to these Regulations (information for the environmental statement) relevant to the specific characteristics of the particular proposed pipe-line works or type of works and to the environmental features likely to be affected,
- (b) take into account any available results of other relevant environmental assessments under European Union or United Kingdom legislation, and

where regulation 7 (opinion by the Secretary of State as to content of environmental statement) applies, the statement shall be based on that opinion and include the information that may be reasonably required for reaching a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment.

(3) In completing the environmental statement, the developer shall ensure that the statement is prepared by a person with expert knowledge as to the matters contained within Schedule 1.”

**27.** In regulation 3 (environmental statements)—

- (a) in paragraph (1), after “(5) and regulations”, insert “3A (exempt pipe-line works),”;
- (b) after paragraph (4) insert—

“(4A) Where the Secretary of State considers that proposed pipe-line works are highly likely to have a significant effect on the environment given the environmental sensitivity of the location of the works, the Secretary of State may direct that no request for an environmental determination may be made under regulation 6 in respect of those works and direct that an environmental statement be prepared in respect of those works.”;

- (c) in paragraph (5), in sub-paragraph(b), after “(3)” insert “or (4A)”;
- (d) after paragraph (5), insert—

“(5A) Where in relation to EIA development there is, in addition to the requirement for an environmental statement to be prepared in accordance with these Regulations, also a requirement to carry out a Habitats Regulation Assessment, the Secretary of State must where appropriate ensure that the preparation of that assessment and the environmental statement are coordinated.”; and

- (e) after paragraph (6), insert—

“(7) In this regulation, a “Habitats Regulation Assessment” means an assessment made under regulation 61 of the Conservation of Habitats and Species Regulations 2010 in respect of the proposed pipe-line works<sup>(23)</sup>.”.

**28.** After regulation 3, insert—

**“Exempt pipe-line works**

**3A.**—(1) The Secretary of State may direct that—

- (a) these Regulations do not apply in relation to proposed pipe-line works if those works comprise or form part of works—
  - (i) having national defence as their sole purpose, or

<sup>(23)</sup> S.I. 2010/490; regulation 61 is amended by S.I. 2012/1927.



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- (ii) having the response to a civil emergency as their sole purpose, and in the opinion of the Secretary of State compliance with these Regulations would have an adverse effect on that purpose;
  - (b) where the proposed pipe-line works are the subject of an Act of Parliament or a measure made under powers contained in such an Act, and providing that the objectives of the Directive are met, the provisions of these Regulations relating to public consultation do not apply in respect of those works; or
  - (c) subject to paragraph (3), any pipe-line works shall be exempt in whole or in part from the requirements of these Regulations if exceptional circumstances exist such that the application of all or some of the provisions of these Regulations would adversely affect the purpose of those works.
- (2) Where a direction is given under paragraph (1) the Secretary of State must send a copy of any such direction to the relevant planning authority.
- (3) The Secretary of State may only give a direction under paragraph (1)(c) if satisfied that—
- (a) the carrying out of those works is not likely to have a significant effect on the environment of any other EEA State; and
  - (b) there are actions to be taken in respect of those works to ensure a high level of protection of the environment and of human health,
- and that the Secretary of State has informed the Commission of the European Union of the reasons justifying the exemption to be granted and has provided it with details of the information to be made available to the public pursuant to paragraph (4)(b).
- (4) A direction given by the Secretary of State under paragraph (1)(c) may disapply such provisions of the Regulations as may in the circumstances appear to the Secretary of State to be appropriate and shall—
- (a) require the carrying out of such form of assessment as the Secretary of State considers appropriate in order to ensure a high level of protection of the environment and of human health;
  - (b) require that all information relating to the main effects the works are likely to have on the environment collected pursuant to sub-paragraph (a) is to be made available to the public and specify the manner in which it is to be made available;
  - (c) specify the extent to which these Regulations are to apply or that they are not going to apply at all; and
  - (d) include a statement of the Secretary of State's reasons for giving the direction and the information on which that decision is based.
- (5) The Secretary of State shall publish details of any direction made under paragraph 1(c) above—
- (a) in the Gazettes together with information as to how the public concerned may obtain a copy of the direction; and
  - (b) on a public website together with an electronic version of the direction.”.

**29.** In regulation 6 (requests to the Secretary of State for an environmental determination)—

- (a) in paragraph (2), at the end of sub-paragraph (a), insert “and the results of preliminary verifications or assessments on the environment carried out pursuant to European Union legislation other than the Directive”;
- (b) for paragraph (6), substitute—

“(6) The Secretary of State shall make an environmental determination in response to a request for the same as soon as possible and in any event within 90 days of receiving the request , unless paragraph 6A) applies.





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(6A) Where the request for an environmental determination is in respect of proposed pipe-line works of an exceptional nature, complexity, location or size, the Secretary of State may extend the deadline referred to in paragraph (6) by notifying the gas transporter in writing as to the date by which the decision will be made and the reasons for the extra time needed.”; and

(c) for paragraph (7), substitute —

“(7) Where in response to a request for an environmental determination, the Secretary of State determines that either—

(a) the proposed pipe-line works are EIA development; or

(b) the proposed pipe-line works are not EIA development,

the Secretary of State shall provide with the determination a written statement of the main reasons for the determination and these reasons shall make reference to the relevant criteria set out in Schedule 2 and where it is determined that the proposed works are not EIA development, shall state any features of the proposed works or measures imposed that are proposed by the developer to avoid or prevent significance adverse effects.”.

**30.** In regulation 7 (pre-application requests to the Secretary of State for an opinion as to content of environmental statement)—

(a) in paragraph (1), for “the information to be provided” substitute “the scope and level of detail to be included by the gas transporter”; and

(b) in paragraph (2)(a)—

(i) after “into account”, insert “on the information provided”;

(ii) in sub-paragraph (a)(i), after “works”, insert “including its location and technical capacity”, and

(iii) omit sub-paragraph (iv).

**31.** In regulation 8 (availability of directions, determinations etc. for inspection)—

(a) after “regulation 3(3)” insert “or 3(4A)”; and

(b) after “reasonably practicable” insert “published on a public website and”.

**32.** In regulation 10 (publicity for environmental statements)—

(a) for paragraph (4), substitute—

“(4) The gas transporter shall publish the notice referred to in paragraph (3)—

(a) in two successive weeks in—

(i) the Gazette, and

(ii) one or more local newspapers circulating in each area in which the proposed pipe-line works would be carried out; and

(b) on a public website, alongside electronic versions of the application for consent and the environmental statement.”; and

(b) at the end of paragraph (7), insert “and also the address of the public website on which the notice was published in accordance with paragraph (4).”.

**33.** In regulation 11 (further information and evidence respecting environmental statements)—

(a) in paragraph (1), after “specify”, insert “ which is directly relevant to enabling the Secretary of State to reach the reasoned conclusion on the significant effects of the proposed pipe-line works on the environment in regulation 14 (consent to pipe-line works)”; and

(b) for paragraph (5), substitute—

“(5) The gas transporter shall publish a notice containing the information specified in paragraph (6)—



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- (a) in two successive weeks in—
  - (i) the Gazette, and
  - (ii) one or more local newspapers circulating in each area in which the proposed pipe-line works would be carried out; and
- (b) on a public website alongside electronic versions of the further information and any supplementary information.”; and
- (c) at the end of paragraph (7), insert “and also the address of the public website on which the notice was published in accordance with paragraph (5).”.

**34.** In regulation 11A (additional information and publicity)—

- (a) for paragraph (4), substitute—

“(4) The notice referred to in paragraph (2)(a) shall be published—

  - (a) in two successive weeks in—
    - (i) the Gazette, and
    - (ii) one or more local newspapers circulating in each area in which the proposed pipe-line works would be carried out; and
  - (b) on a public website alongside electronic versions of the additional information.”; and
- (b) at the end of paragraph (7), insert “and also the address of the public website on which the notice was published in accordance with paragraph (4).”.

**35.** In regulation 13 (projects affecting other States)—

- (a) for “member State”, where ever it occurs, substitute “EEA State”;
- (b) in paragraph (2)(a)(iii), after “these Regulations”, insert “including the address of the public website referred to in regulation 10(4)”;
- (c) omit paragraph (3); and
- (d) in paragraph (5)—
  - (i) for “apply” substitute “applies”; and
  - (ii) omit “or 3”, “either” and “or paragraph 3 above, as appropriate”.

**36.** In regulation 14 (consent to pipe-line works)—

- (a) in paragraph (1)—
  - (i) in sub-paragraph (b)(i), after “information”, insert “, ensuring that where necessary, advice has been obtained from persons with appropriate expert knowledge to examine the statement”; and
  - (ii) at the end of sub-paragraph (b), omit the “and”; and
  - (iii) after sub-paragraph (c), insert “and”, delete everything up to the end of the paragraph and insert—

“(d) having reached a reasoned conclusion on the significant effects of the proposed pipe-line works on the environment, taking into account the information and representations referred to in sub-paragraphs (a) to (c),

may, subject to paragraph (2), integrate that conclusion into the Secretary of State’s decision to consent to the carrying out of the proposed pipe-line works.”
- (b) after paragraph (1), insert—

“(1A) If consent is to be given under paragraph (1), the consent should set out—

  - (a) any environmental conditions attached to the consent;
  - (b) any features of the proposed pipe-line works designed or measures envisaged to avoid, reduce or prevent or if possible offset any significant adverse effect; and



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(c) any measures to monitor conditions imposed envisaged to avoid, prevent, or reduce or offset significant adverse effects on the environment (“a monitoring condition”).

(1B) If consent is to be refused under paragraph (1), the decision to refuse consent shall state the main reasons for refusal.

(1C) The reasoned conclusion referred to in paragraph (1)(d) must be up to date at the time that the decision to consent to the carrying out of the proposed pipe-line works is made but that conclusion shall be taken to be up to date if, in the opinion of the Secretary of State it addresses the significant effects that are likely to arise as a result of the proposed works.

(1D) When considering whether to impose a monitoring condition under paragraph (1A)(c), the Secretary of State must—

- (a) consider whether to make provision for potential remedial action; and
- (b) take steps to ensure that the type of parameters to be monitored and the duration of the monitoring are proportionate to the nature, location and size of the proposed pipe-line works and the significance of their effects on the environment.

(1E) The decision of the Secretary of State in paragraph (1)(c) must be taken within a reasonable period of time, taking into account the nature and complexity of the relevant project, from the date on which the Secretary of State has been provided with the information referred to in paragraph (1)(a).”;

(c) in paragraph (2)—

- (i) for “member State”, where ever it occurs, substitute “EEA State”; and
- (ii) in sub-paragraph (c)(ii), after “reasonable time” insert “ (in respect of the public, at least 30 days);”;

(d) in paragraph (4)—

- (i) after “Secretary of State shall”, insert “promptly”;
- (ii) at the end of sub-paragraph (b)(i), insert “including any monitoring conditions”; and
- (iii) at the end of sub-paragraph (b)(ii), insert “including where regulation 13 (projects affecting other states) applies, any representations made by an EEA State affected by the works or the public concerned and authorities in that state”;

(e) in paragraph (5), after sub-paragraph (b), omit the full-stop and insert—

“and (c) on a public website.”;

(f) for paragraph (5A), substitute—

“(5A) A notice published under paragraph (5) above shall—

(a) set out—

- (i) the contents of the decision and any conditions attached to the decision;
- (ii) the main reasons and considerations on which the decision is based;
- (iii) a summary of all representations made to the Secretary of State by any person in respect of the proposed pipe-line works in question, including where regulation 13 applies, any representations made by an EEA State affected by the works or the public concerned and authorities in that state, together with details of how those representations were taken into account; and
- (iv) a description, where necessary, of any monitoring conditions imposed; and

(b) specify where details of these matters may be obtained and these details shall also be made available electronically on the website referred to in paragraph (5).”;

(g) omit paragraph (5B); and

(h) at the end of paragraph (6), insert “and also the address of the public website on which the notice was published in accordance with paragraph (5)”.



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37. In regulation 18 (offences), in paragraph (2)(a), for “(1)”, substitute “(1A)”.

**Review clause**

38. After regulation 19 (service of notices), insert—

**“Review**

20.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review, the Secretary of State must, so far as is reasonable, have regard to how the Directive (which is implemented by these regulations) is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way.

(4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which this regulation comes into force.

(5) Subsequent reports under this regulation must be published at intervals not exceeding five years.”.

**Amendment to Schedule 1 to the 1999 Pipe-line Regulations (information to be included in an environmental statement)**

39. For Schedule 1 to the 1999 Pipe-line Regulations, substitute the Schedule that is set out in Schedule 3 to these Regulations.

**Amendment to Schedule 2 to the 1999 Pipe-line Regulations (matters to be taken into account in making an environmental determination or giving a direction under regulation 3(3))**

40. For Schedule 2 to the 1999 Pipe-line Regulations, substitute the Schedule that is set out in Schedule 4 to these Regulations.

**Transitional and saving provisions in respect of the 1999 Pipe-line Regulations**

41.—(1) Nothing in these Regulations shall affect the continued application of the 1999 Pipe-line Regulations in relation to—

- (a) any notice of preparation of environmental statement referred to in regulation 3;
- (b) any request for an environmental determination referred to in regulation 6;
- (c) any pre-application request for an opinion as to the content of an environmental statement referred to in regulation 7; or
- (d) any application for consent referred to in regulation 14,

received by the Secretary of State before the commencement of these Regulations.

(2) Where in respect of proposed pipe-line works, any of the matters set out in paragraph (3) have not been carried out or concluded before the commencement of these Regulations, the 1999 Pipe-line



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Regulations as unamended by these Regulations shall continue to have effect for the purpose of carrying out or concluding that matter.

- (3) The matters referred to in paragraph (2) are—
- (a) provision of the Secretary of State’s opinion under regulation 7;
  - (b) the provision of information under regulation 9;
  - (c) the procedure for giving publicity to the environment statement as set out in regulation 10;
  - (d) notice to provide further information under regulation 11 or the procedure for handling information set out in that regulation and in regulation 11A;
  - (e) provision of information affecting other states under regulation 13;
  - (f) applications to court under regulations 15 (application to court), 16 application to court by person aggrieved) or 17 ( application to court by Secretary of State) or an appeal in respect of such an application; and
  - (g) proceedings in respect of an offence under regulation 18.

## PART 3

### Amendments to the 2000 Regulations

**42.** The 2000 Regulations are amended as follows.

**43.** In the 2000 Regulations, for “28 days” or “four weeks”, where ever they occur, substitute “30 days”.

**44.** In regulation 2 (interpretation)

- (a) renumber the first paragraph as paragraph (1);
- (b) in paragraph (1)—
  - (i) for the definition of “appropriate particulars”, substitute—

““appropriate particulars” means the name and address of the applicant or prospective applicant and a description of the relevant pipe-line works which—
  - (a) includes—
    - (i) the physical characteristics of the works, and where relevant, of demolition works;
    - (ii) the location of the works with particular regard to the environmental sensitivity of the geographical areas likely to be affected by the works;
    - (iii) the aspects of the environment likely to be significantly affected by the works;
    - (iv) any likely significant effects, to the extent of the information available on such effects, of the works on the environment resulting from—
      - (aa) the expected residues and emissions and the production of waste, where relevant; and
      - (bb) the use of natural resources, in particular soil, land, water and biodiversity;
  - and the matters set out in Schedule 2 (matters to be taken into account in making an environmental determination etc.) and the results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Directive shall, where relevant, be taken into account when compiling this information; and
  - (b) may also include any features of the relevant pipe-line works or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment;”;
  - (ii) after the definition of “contravention”, insert—



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“the Directive” means Council Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment;”;

(iii) for the definition of “environmental statement”, substitute—

““environmental impact assessment” means the process described in regulation 2A(1) (environmental impact assessment);

“environmental statement” has the meaning set out in regulation 2B;”;

(c) after paragraph (1), insert—

“(2) Expressions used both in these Regulations and in the Directive have the same meaning unless otherwise stated.”;

45. After regulation 2, insert—

**“Environmental impact assessment**

**2A.**—(1) In these Regulations, the “environmental impact assessment” is the process consisting of—

- (a) the preparation and submission of an environmental statement by a prospective applicant;
- (b) the carrying out of the consultations referred to in regulation 6 (provision of information), 7 (publicity for environmental statements), 8 (further information and evidence respecting environmental statements), 8A (additional information and publicity) and 10 (projects affecting other EEA states);
- (c) the Secretary of State’s consideration of the information presented in the environmental statement, any further information or additional information provided in accordance with regulations 8 or 8A and any representations or opinions received as the result of the consultations referred to in sub-paragraph (b);
- (d) the Secretary of State’s reasoned conclusion as required by regulation 3(2) and
- (e) the integration of that conclusion into the decision as to whether the grant of pipe-line construction authorisation is to be given as required by regulation 3(2).

(2) The process described in paragraph (1) shall identify, describe and assess in an appropriate manner, for each relevant pipe-line works, the direct and indirect significant effects of those works on the following factors—

- (a) population and human health;
- (b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;
- (c) land, soil, water, air and climate;
- (d) material assets, cultural heritage and the landscape; and
- (e) the interaction between the factors referred to in sub-paragraphs (a) to (d),

including the operation effects of the works (where the works will have operational effects) and expected effects deriving from the vulnerability of the works to risks of major accidents or disasters that are relevant to the works concerned.

**Environmental statement**

**2B.**—(1) In these Regulations, an “environmental statement” means the report prepared in respect of the relevant pipe-line works which includes—

- (a) a description of the works comprising information on the location, design, size and other relevant features of the works;
- (b) a description of the likely significant effects of the works on the environment;



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- (c) a description of the features of the works or measures envisaged in order to avoid, prevent or reduce, and if possible, offset likely significant adverse effects on the environment;
- (d) a description of the reasonable alternatives studied by the applicant which are relevant to the works and their specific characteristics and an indication of the main reasons for the option chosen, taking into account the effects of the works on the environment; and
- (e) a non-technical summary of the information referred to in sub-paragraphs (a) to (d) above.

(2) The environmental statement shall —

- (a) also include any additional information set out in Schedule 1 to these Regulations (information for the environmental statement) relevant to the specific characteristics of the particular relevant pipe-line works or type of works and to the environmental features likely to be affected; and
- (b) take into account any available results of other relevant environmental assessments under European Union or United Kingdom legislation, and

where regulation 7 (opinion by the Secretary of State as to content of environmental statement) applies, the statement shall be based on that opinion and include the information that may be reasonably required for reaching a reasoned conclusion on the significant effects of the relevant pipe-line works on the environment, taking into account current knowledge and methods of assessment.

(3) In completing the environmental statement, the prospective applicant shall ensure that it is prepared by a person with expert knowledge as to the matters contained within Schedule 1.”

46. After regulation 2B (environmental statement), insert—

**“Exempt pipe-line works**

**2C.—**(1) The Secretary of State may direct that—

- (a) these Regulations do not apply in relation to the relevant pipe-line works if those works comprise or forms part of works—
  - (i) having national defence as their sole purpose, or
  - (ii) having the response to a civil emergency as their sole purpose,and in the opinion of the Secretary of State compliance with these Regulations would have an adverse effect on that purpose;
- (b) where the relevant pipe-line works are the subject of an Act of Parliament or a measure made under powers contained in such an Act, and providing that the objectives of the Directive are met, the provisions of these Regulations relating to public consultation do not apply in respect of those works; or
- (c) subject to paragraph (3), any relevant pipe-line works shall be exempt in whole or in part from the requirements of these Regulations if exceptional circumstances exist such that the application of all or some of the provisions of these Regulations would adversely affect the purpose of those works.

(2) Where a direction is given under paragraph (1) the Secretary of State must send a copy of any such direction to the relevant planning authority.

(3) The Secretary of State may only give a direction under paragraph (1)(c) if satisfied that—

- (a) the carrying out of those works is not likely to have a significant effect on the environment of any other EEA State; and
- (b) there are actions to be taken in respect of those works to ensure a high level of protection of the environment and of human health,



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and that the Secretary of State has informed the Commission of the European Union of the reasons justifying the exemption to be granted and has provided it with details of the information to be made available to the public pursuant to paragraph (4)(b).

(4) A direction given by the Secretary of State under paragraph (1)(c) may disapply such provisions of the Regulations as may in the circumstances appear to the Secretary of State to be appropriate and shall—

- (a) require the carrying out of such form of assessment as the Secretary of State considers appropriate in order to ensure a high level of protection of the environment and of human health;
- (b) require that all information relating to the main effects the works are likely to have on the environment collected pursuant to sub-paragraph (a) is to be made available to the public and specify the manner in which it is to be made available;
- (c) specify the extent to which these Regulations are to apply or that they are not going to apply at all; and
- (d) include a statement of the Secretary of State's reasons for giving the direction and the information on which that decision is based.

(5) The Secretary of State shall publish details of any direction made under paragraph 1(c) above

- (a) in the Gazettes together with information as to how the public concerned may obtain a copy of the direction; and
- (b) on a public website together with an electronic version of the direction.”.

**47.** In regulation 3 (grant of pipe-line construction authorisation by Secretary of State in respect of relevant pipe-line works)—

(a) after paragraph (1), insert—

“(1A) Where in relation to pipe-line works there is a requirement for an environmental statement to be submitted in accordance with these Regulations, there is also a requirement to carry out a Habitats Regulation Assessment, the Secretary of State must where appropriate ensure that the preparation of the assessment and the environmental statement are coordinated.”;

(b) for paragraph (2), substitute—

“(2) Where an environmental statement is submitted to the Secretary of State in connection with an EIA application, the Secretary of State—

- (a) being satisfied that the requirements of regulations 7, 8 and 8A, as appropriate, have been substantially complied with;
- (b) having taken into consideration—
  - (i) the environmental statement and any supplementary information, ensuring that, where necessary, advice has been obtained by persons with appropriate expert knowledge to examine the statement;
  - (ii) any further information or additional information;
  - (iii) any representations in respect of the relevant pipe-line works made by any person to whom a copy of the environmental statement was required to be sent pursuant to these Regulations;
  - (iv) any opinions of the public; and
- (c) having reached a reasoned conclusion on the significant effects of the relevant pipe-line works on the environment taking into account the information, representations and opinions referred to in sub-paragraph (b),

may, subject to paragraph (3), integrate that conclusion into the decision to grant a pipe-line construction authorisation in respect of relevant pipe-line works.”;





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(c) after paragraph (2), insert—

“(2A) If the decision in paragraph (1) is to grant the pipe-line construction authorisation, the decision should set out—

- (a) any environmental conditions attached to the consent, and
- (b) any features of the relevant pipe-line works designed or measure envisaged to avoid, reduce or prevent or if possible offset any significant adverse effect;
- (c) any measures to monitor conditions imposed envisaged to avoid, prevent, or reduce or offset significant adverse effects on the environment (“a monitoring condition”).

(2B) If the decision in paragraph (1) is to refuse the pipe-line construction authorisation, the decision shall state the main reasons for refusal.

(2C) The reasoned conclusion referred to in paragraph (2) must be up to date at the time that the decision to grant the pipe-line construction authorisation is made but that conclusion shall be take to be up to date if, in the opinion of the Secretary of State it addresses the significant effects that are likely to arise as a result of the proposed works.

(2D) When considering whether to impose a monitoring condition under paragraph (2A)(c), the Secretary of State must—

- (a) consider whether to make provision for potential remedial action; and
- (b) take steps to ensure that the type of parameters to be monitored and the duration of the monitoring are proportionate to the nature, location and size of the proposed pipe-line works and the significance of its effects on the environment.

(2E) The decision of the Secretary of State in paragraph (2) must be taken within a reasonable period of time, taking into account the nature and complexity of the proposed pipe-line works, from the date on which the Secretary of State has been provided with the information referred to in paragraph (2)(b).”;

(d) in paragraph (3)(c)(ii), after “reasonable time” insert “(in respect of the public, at least 30 days)”;

(e) in paragraph (4)—

- (i) after “Secretary of State shall”, insert “promptly”;
- (ii) at the end of sub-paragraph (b)(ii), insert “including where regulation 10 (projects affecting other EEA states) applies, any representations made by an EEA State affected by the relevant pipe-line works or the public concerned and authorities in that state”; and
- (iii) at the end of sub-paragraph (b)(iv), insert “, including any monitoring conditions”;

(f) for paragraph (5), after sub-paragraph (b), omit the full stop and insert—

“and (c) on a public website.”;

(g) for paragraph (5A), substitute

“(5A) A notice published under paragraph (5) above shall—

- (a) set out—
  - (i) the contents of the decision and any conditions attached to the decision;
  - (ii) the main reasons and considerations on which the decision is based;
  - (iii) a summary of all representations made to the Secretary of State by any person in respect of the project in question, including where regulation 10 (projects affecting other EEA states) applies, any representations made by an EEA State affected by the relevant pipe-line works or the public concerned and authorities in that state, together with details of how those representations were taken into account; and
  - (iv) a description, where necessary, of any monitoring conditions imposed; and
- (b) specify where details of these matters may be obtained (and where the notice is published on a public website, these details shall be made available on that website.)”;



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- (h) omit paragraph (5B);
- (i) at the end of paragraph (6), insert “and also the address of the public website on which the notice was published in accordance with paragraph (5).” and
- (j) after paragraph (6), insert—

“(7) In this regulation, “a Habitats Regulation Assessment” means an assessment made under regulation 61 of the Conservation of Habitats and Species Regulations 2010 in respect of the relevant pipe-line works<sup>(24)</sup>.”.

**48.** In regulation 4 (directions that no environmental statement need be prepared)—

- (a) after paragraph (1), insert—

“(1A) Where the Secretary of State considers that a relevant pipe-line works is highly likely to have a significant effect on the environment given the environmental sensitivity of the location of the works, the Secretary of State may direct that no application may be made under paragraph (1) in respect of those works and that an environmental statement must be required before the Secretary of State can agree to the grant of a consent in respect of those works.”;
- (b) at the end of paragraph (2), insert “and the results of preliminary determinations or assessments on the environment carried out pursuant to European Union legislation other than the Directive”;
- (c) after paragraph (6), insert—

“(6A) The Secretary of State shall make a decision in relation to any application made under paragraph (1) as soon as possible and in any event within 90 days of receiving the application, unless paragraph (6B) applies.

(6B) Where an application referred to in paragraph (1) is for a relevant pipe-line works that is an exceptional case, for example in relation to its nature, complexity, location or size, the Secretary of State may extend the time limit referred to in paragraph (6A) by notifying the applicant in writing as to when the decision will be made and the reasons why the Secretary of State considers the extra time is needed.”

; and
- (d) for paragraph (7), substitute—

“(7) Paragraph (8) applies where either the Secretary of State—

  - (a) makes a direction under paragraph (1A) or
  - (b) directs, in response to an application under paragraph (1) that either—
    - (i) an EIA application in respect of those relevant pipe-line works needs to be accompanied by an environmental statement; or
    - (ii) an EIA application in respect of those relevant pipe-line works does not need to be accompanied by an environmental statement.

(8) Where this paragraph applies, the Secretary of State shall—

  - (a) publish the notice of the direction in the Gazette and on a public website; and
  - (b) publish with the notice a written statement of the main reasons for the direction, making references to the relevant criteria set out in Schedule 2 and where the direction is that the EIA application does not need to be accompanied by an environmental statement, state any features of the proposed works or measures imposed that are proposed by the prospective applicant to avoid or prevent significance adverse effects.”.

**49.** In regulation 5 (pre-application opinion by the Secretary of State as to content of environmental statement)—

- (a) in paragraph (1), for “the information to be provided”, substitute “the scope and level of detail to be included by the applicant”;

<sup>(24)</sup> S.I. 2010/490; regulation 61 is amended by S.I. 2012/1927.



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(b) in paragraph (2)(a)—

- (i) after “into account”, insert “on the information provided”;
- (ii) in sub-paragraph (a)(i), after “works”, insert “including location and technical capacity”, and
- (iii) omit sub-paragraph (iv).

**50.** In regulation 7 (publicity for environmental statements)—

(a) in paragraph (4)(a), after “1962 Act”, insert—

- “(i) satisfies the requirements of paragraph (5) below; and
- (ii) is also published on a public website alongside electronic copies of the EIA application, environmental statement and any supplemental information which accompanied the statement.”;

(b) at the end of paragraph (6), insert “and also the address of the public website on which the notice was published in accordance with paragraph (4)”.

**51.** In regulation 8 (further information and evidence respecting environmental statements)—

(a) in paragraph (1), after “specify”, insert “which is directly relevant to enabling the Secretary of State to reach the reasoned conclusion referred to in regulation (3)(2)”;

(b) for paragraph (5), substitute—

“(5) The applicant shall publish the notice containing the information specified in paragraph (6) below—

(a) in two successive weeks in—

(i) the Gazette, and

(ii) one or more local newspapers circulating in each area in which the relevant pipe-line works would be carried out; and

(b) on a public website alongside electronic versions of the further information.”;

(c) at the end of paragraph (7), omit the full stop and insert “and also the address of the public website on which the notice was published in accordance with paragraph (5).”.

**52.** In regulation 8A (additional information and publicity)—

(a) for paragraph (4), substitute—

“(4) The applicant shall publish the notice containing the information specified in paragraph (5) below—

(a) in two successive weeks in—

(i) the Gazette, and

(ii) one or more local newspapers circulating in each area in which the relevant pipe-line works would be carried out; and

(b) on a public website alongside electronic versions of the additional information.”;

(b) at the end of paragraph (7), omit the full stop and insert “and also the address of the public website on which the notice was published in accordance with paragraph (4).”.

**53.** In regulation 10 (projects affecting other EEA States), at the end of paragraph (2)(a)(iii), insert “including the address of the public website referred to in regulation 7(4)(a)”.

**Review clause**

**54.** After regulation 15 (service of notices), insert—



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**“Review**

**16.**—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review, the Secretary of State must, so far as is reasonable, have regard to how the Directive (which is implemented by these regulations) is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by these Regulations,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way.

(4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which this regulation comes into force.

(5) Subsequent reports under this regulation must be published at intervals not exceeding five years.”.

**Amendment to Schedule 1 to the 2000 Regulations (information to be included in an environmental statement)**

**55.** For Schedule 1 to the 2000 Regulations, substitute the schedule that is set out in Schedule 5 to these Regulations.

**Amendment to Schedule 2 to the 2000 Regulations (matters to be taken into account in giving a direction under regulation 4(2))**

**56.** For Schedule 2 to the 2000 Regulations, substitute the schedule that is set out in Schedule 6 to these Regulations.

**Transitional and savings provisions in respect of the 2000 Regulations**

**57.**—(1) Nothing in these Regulations shall affect the continued application of the 2000 Regulations in relation to—

- (a) any EIA application for the grant of a pipe-line construction authorisation referred to in regulation 3;
- (b) any application for a direction that no environmental statement need be prepared referred to in regulation 4; or
- (c) pre-application request for an opinion as to the content of an environmental statement referred to in regulation 5;

received by the Secretary of State before the commencement of these Regulations.

(2) Where in respect of relevant pipe-line works, any of the matters set out in paragraph (3) have not been carried out or concluded before the commencement of these Regulations, the 2000 Regulations as unamended by these Regulations shall continue to have effect for the purpose of carrying out or concluding that matter.

(3) The matters referred to in paragraph (2) are—

- (a) provision of the Secretary of State’s opinion under regulation 5
- (b) the provision of information under regulation 6;



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- (c) the procedure for giving publicity to the environment statement as set out in regulation 7;
- (d) notice to provide further information under regulation 8 or the procedure for handling information set out in that regulation and in regulation 8A;
- (e) provision of information affecting other EEA states under regulation 10;
- (f) applications to court under regulations 12 (application to court by person aggrieved) or 13 (application to court by Secretary of State) or an appeal in respect of such an application; and
- (g) proceedings in respect of an offence under regulation 14.

Date

*Name*  
Parliamentary Under Secretary of State  
Department of Business, Energy and Industrial Strategy



“SCHEDULE 1 Regulations 5(2) and (2A), 6(3) and 11

**MATTERS TO BE TAKEN INTO ACCOUNT IN DECIDING  
WHETHER RELEVANT PROJECT LIKELY TO HAVE A  
SIGNIFICANT EFFECT ON THE ENVIRONMENT**

**Characteristics of projects**

1. The characteristics of projects having regard, in particular, to—
  - (a) the size and design of the project;
  - (b) the cumulation with other existing or approved projects;
  - (c) the use of natural resources in particular land, soil, water and biodiversity;
  - (d) the production of waste, pollution and nuisances; and
  - (e) the risk of major accidents or disasters which are relevant to the project concerned including those caused by climate change, in accordance with scientific knowledge;
  - (f) the risks to human health (for example, due to water contamination or air pollution).

**Location of projects**

2. The environmental sensitivity of geographical areas likely to be affected by projects having regard, in particular, to—
  - (a) the existing and approved land use;
  - (b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground;
  - (c) the absorption capacity of the natural environment, paying particular attention to the following areas—
    - (i) wetlands, riparian areas, river mouths;
    - (ii) coastal zones and the marine environment;
    - (iii) mountain and forest areas;
    - (iv) nature reserves and parks;
    - (v) areas classified or protected under national legislation, Natura 2000 areas designated by Member States pursuant to Directive 92/43/EEC and Directive 2009/147/EC;
    - (vi) areas in which there has already been a failure to meet the environmental quality standards laid down in European Union legislation and relevant to the project or in which it is considered that there is such a failure;
    - (vii) densely populated areas; and
    - (viii) landscapes and sites of historical, cultural or archaeological significance.

**Type and characteristics of the potential impact**

3. The likely significant effects of projects on the environment in relation to criteria set out under paragraphs 1 and 2, and having regard in particular to the impact of the project on the factors specified in Article 3(1) of the Directive, taking into account—



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- (a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);
- (b) the nature of the impact;
- (c) the transboundary nature of the impact;
- (d) the intensity and complexity of the impact;
- (e) the probability of the impact;
- (f) the expected onset, duration, frequency and reversibility of the impact;
- (g) the cumulation of the impact with the impact of other existing or approved projects; and
- (h) the possibility of effectively reducing the impact.”



## SCHEDULE 2

Regulation 21

## “SCHEDULE 2

Regulation 3B

### Information for the Environmental Statement

1. A description of the relevant project, including in particular:
  - (a) a description of the location of the project;
  - (b) a description of the physical characteristics of the whole project, including, where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases;
  - (c) a description of the main characteristics of the operational phase of the project (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used;
  - (d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation) and quantities and types of waste produced during the construction and operation phases.
2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the undertaker, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.
3. A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the project as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.
4. A description of the factors set out in regulation 3A(2) likely to be significantly affected by the project: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.
5. A description of the likely significant effects of the project on the environment resulting from, inter alia:
  - (a) the construction and existence of the project, including, where relevant, demolition works;
  - (b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;
  - (c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste;
  - (d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters);
  - (e) the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;
  - (f) the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change;





(g) the technologies and the substances used; and

these descriptions on the likely significant effects on the factors set out in regulation 3A(2) should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the project and should take into account environmental protection objectives established at European Union or at national level relevant to the project.

**6.** A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

**7.** A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis). That description should explain the extent, to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.

**8.** A description of the expected significant adverse effects of the relevant project on the environment deriving from the vulnerability of the project to risks of major accidents or disasters which are relevant to the project. Relevant information available and obtained through risk assessments pursuant to European Union legislation such as Directive 2012/18/EU of the European Parliament<sup>(25)</sup> and of the Council or Council Directive 2009/71/Euratom<sup>(26)</sup> or relevant assessments carried out pursuant to national legislation may be used for this purpose provided that the requirements of the Directive are met. Where appropriate, this description should include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

**10.** A non-technical summary of the information provided under paragraphs 1 to 8.

**11.** A reference list detailing the sources used for the descriptions and assessments included in the statement.”

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<sup>(25)</sup> OJ L 197 24.7.2012. p.1

<sup>(26)</sup> OJ L 172 2.7.2009. p.18.



## SCHEDULE 3

Regulation 39

### “SCHEDULE 1

Regulation 2B

#### Information for the Environmental Statement

1. A description of the proposed pipe-line works, including in particular:
  - (a) a description of the location of the works;
  - (b) a description of the physical characteristics of the whole works, including, where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases;
  - (c) a description of the main characteristics of the operational phase of the works (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used;
  - (d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation) and quantities and types of waste produced during the construction and operation phases.
2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed pipe-line works and their specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.
3. A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the project as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.
4. A description of the factors set out in regulation 2A(2) likely to be significantly affected by the project: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.
5. A description of the likely significant effects of the proposed pipe-line works on the environment resulting from, inter alia:
  - (a) the construction and existence of the works, including, where relevant, demolition works;
  - (b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;
  - (c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste;
  - (d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters);
  - (e) the cumulation of effects with other existing or approved pipe-line works, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;
  - (f) the impact of the works on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the works to climate change;



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(g) the technologies and the substances used; and

these descriptions on the likely significant effects on the factors set out in regulation 2A(2) should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the works and should take into account environmental protection objectives established at European Union or at national level relevant to the works.

**6.** A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

**7.** A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis). That description should explain the extent, to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.

**8.** A description of the expected significant adverse effects of the project on the environment deriving from the vulnerability of the project to risks of major accidents or disasters which are relevant to the project concerned. Relevant information available and obtained through risk assessments pursuant to European Union legislation such as Directive 2012/18/EU of the European Parliament and of the Council or Council Directive 2009/71/Euratom or relevant assessments carried out pursuant to national legislation may be used for this purpose provided that the requirements of the Directive are met. Where appropriate, this description should include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

**10.** A non-technical summary of the information provided under paragraphs 1 to 8.

**11.** A reference list detailing the sources used for the descriptions and assessments included in the statement.”



## SCHEDULE 4

Regulation 40

### “SCHEDULE 2

Regulation 2(1)

## MATTERS TO BE TAKEN INTO ACCOUNT IN MAKING AN ENVIRONMENTAL DETERMINATION OR GIVING A DIRECTION UNDER REGULATION 3(3)

### Characteristics of proposed pipe-line works

1. The characteristics of proposed pipe-line works must be considered having regard, in particular, to—

- (a) the size and design of the proposed pipe-line works and of the proposed pipe-line;
- (b) the cumulation with other developments;
- (c) the use of natural resources in particular land, soil, water and biodiversity;
- (d) the production of waste, pollution and nuisances;
- (e) the risk of major accidents or disasters which are relevant to the proposed pipe-line works or to the proposed pipe-line, including those caused by climate change, in accordance with scientific knowledge; and
- (f) the risks to human health (for example, due to water contamination or air pollution).

### Location of proposed pipe-line works

2. The environmental sensitivity of geographical areas likely to be affected by proposed pipe-line works must be considered, having regard, in particular, to—

- (a) the existing and approved land use;
- (b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground;
- (c) the absorption capacity of the natural environment, paying particular attention to the following areas—
  - (i) wetlands, riparian areas, river mouths;
  - (ii) coastal zones and the marine environment;
  - (iii) mountain and forest areas;
  - (iv) nature reserves and parks;
  - (v) areas classified or protected under national legislation, Natura 2000 areas designated by Member States pursuant to Directive 92/43/EEC and Directive 2009/147/EC;
  - (vi) areas in which there has already been a failure to meet the environmental quality standards laid down in European Union legislation and relevant to the works or in which it is considered that there is such a failure;
  - (vii) densely populated areas; and
  - (viii) landscapes and sites of historical, cultural or archaeological significance.



**Type and characteristics of the potential impact**

3. The likely significant effects of proposed pipe-line works on the environment must be considered in relation to criteria set out under paragraphs 1 and 2, and having regard in particular to the impact of the project on the factors specified in Article 3(1) of the Directive, taking into account—

- (a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);
- (b) the nature of the impact;
- (c) the transboundary nature of the impact;
- (d) the intensity and complexity of the impact;
- (e) the probability of the impact;
- (f) the expected onset, duration, frequency and reversibility of the impact;
- (g) the cumulation of the impact with the impact of other existing or approved developments;  
and
- (h) the possibility of effectively reducing the impact.”



## SCHEDULE 5

Regulation 55

### “SCHEDULE 1

Regulation 2B

#### Information for the Environmental Statement

1. A description of the relevant pipe-line works, including in particular:
  - (a) a description of the location of the works;
  - (b) a description of the physical characteristics of the whole works, including, where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases;
  - (c) a description of the main characteristics of the operational phase of the works (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used;
  - (d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation) and quantities and types of waste produced during the construction and operation phases.
2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the prospective applicant, which are relevant to the relevant pipe-line works and their specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.
3. A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the project as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.
4. A description of the factors set out in article 2A(2) likely to be significantly affected by the project: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.
5. A description of the likely significant effects of the relevant pipe-line works on the environment resulting from, inter alia:
  - (a) the construction and existence of the works, including, where relevant, demolition works;
  - (b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;
  - (c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste;
  - (d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters);
  - (e) the cumulation of effects with other existing and/or approved pipe-line works, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;
  - (f) the impact of the works on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the works to climate change;



(g) the technologies and the substances used; and

these descriptions on the likely significant effects on the factors set out in regulation 2A(2) should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the works and should take into account environmental protection objectives established at European Union or at national level relevant to the works.

**6.** A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

**7.** A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis). That description should explain the extent, to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.

**8.** A description of the expected significant adverse effects of the project on the environment deriving from the vulnerability of the project to risks of major accidents or disasters which are relevant to the project concerned. Relevant information available and obtained through risk assessments pursuant to European Union legislation such as Directive 2012/18/EU of the European Parliament and of the Council or Council Directive 2009/71/Euratom or relevant assessments carried out pursuant to national legislation may be used for this purpose provided that the requirements of the Directive are met. Where appropriate, this description should include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

**10.** A non-technical summary of the information provided under paragraphs 1 to 8.

**11.** A reference list detailing the sources used for the descriptions and assessments included in the statement.”<sup>3</sup>.



SCHEDULE 6

Regulation 56

“SCHEDULE 2

Regulation 4(2)

**MATTERS TO BE TAKEN INTO ACCOUNT IN MAKING AN  
ENVIRONMENTAL DETERMINATION OR GIVING A  
DIRECTION UNDER REGULATION 4(2)**

**Characteristics of relevant pipe-line works**

1. The characteristics of the relevant pipe-line works must be considered having regard, in particular, to—

- (a) the size and design of the relevant pipe-line works and of the pipe-line;
- (b) the cumulation with other developments;
- (c) the use of natural resources in particular land, soil, water and biodiversity;
- (d) the production of waste, pollution and nuisances; and
- (e) the risk of major accidents or disasters which are relevant to the relevant pipe-line works or to the pipe-line, including those caused by climate change, in accordance with scientific knowledge;
- (f) the risks to human health (for example, due to water contamination or air pollution).

**Location of relevant pipe-line works**

2. The environmental sensitivity of geographical areas likely to be affected by the relevant pipe-line works must be considered, having regard, in particular, to—

- (a) the existing and approved land use;
- (b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground;
- (c) the absorption capacity of the natural environment, paying particular attention to the following areas—
  - (i) wetlands, riparian areas, river mouths;
  - (ii) coastal zones and the marine environment;
  - (iii) mountain and forest areas;
  - (iv) nature reserves and parks;
  - (v) areas classified or protected under national legislation, Natura 2000 areas designated by Member States pursuant to Directive 92/43/EEC and Directive 2009/147/EC;
  - (vi) areas in which there has already been a failure to meet the environmental quality standards laid down in European Union legislation and relevant to the project or in which it is considered that there is such a failure;
  - (vii) densely populated areas; and
  - (viii) landscapes and sites of historical, cultural or archaeological significance.





**Type and characteristics of the potential impact**

3. The likely significant effects of the relevant pipe-line works on the environment must be considered in relation to criteria set out under paragraphs 1 and 2, and having regard in particular to the impact of the works on the factors specified in Article 3(1) of the Directive, taking into account—

- (a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);
- (b) the nature of the impact;
- (c) the transboundary nature of the impact;
- (d) the intensity and complexity of the impact;
- (e) the probability of the impact;
- (f) the expected onset, duration, frequency and reversibility of the impact;
- (g) the cumulation of the impact with the impact of other existing or approved developments;  
and
- (h) the possibility of effectively reducing the impact.”



## EXPLANATORY NOTE

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

These Regulations implement (as regards Great Britain) Council Directive 2014/52/EU<sup>(27)</sup> of the European Parliament and of the Council of 16 April 2014 on the assessment of the effects of certain public and private projects on the environment (“the EIA Directive”). The EIA Directive amends Council Directive 2011/92/EU<sup>(28)</sup> (which is a consolidation of Council Directive 85/337/EEC<sup>(29)</sup> as amended by Council Directive 97/11/EC<sup>(30)</sup>). The EIA Directive is transposed via amendments to –

- the Offshore Petroleum and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (S.I. 1999/ 360 as amended by S.I. 2007/933 and by S.I. 2015/1431) (“the 1999 Offshore Regulations”) as it relates re certain offshore oil and gas projects - see Part 1. The amendments to this instrument also incorporate modifications made by article 2 of the Energy Act 2008 (Consequential Modifications) (Offshore Environmental Protection) Order 2010 (S.I. 2010/1513) (“the 2010 Order”), therefore implementing the EIA Directive as it applies re storage and unloading of combustible gases and the permanent storage of carbon dioxide (see amendments to regulations 3, 4, 5 and 6);
- the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (S.I. 1999/1672 as amended by S.I. 2007/1996) (“the 1999 Pipe-line Regulations”) as it relates to pipe-line works by a public gas transporter; and
- the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (S.I. 2000/1928 as amended by S.I. 2007/1996) (“the 2000 Regulations”) as it relates to oil, gas or chemical pipe-lines on land.

Council Directive 2011/92/EU, as amended by the EIA Directive, applies to the European Economic Area (“EEA”) (see article 74 of and Annex XX to the Agreement on the EEA (Cm 2073) as adjusted by the Protocol signed at Brussels on 17<sup>th</sup> March 1993 (Cm 2183) so that EEA states are able to participate in the decision-making regarding projects likely to have significant trans-boundary effect. Regulations 5, 6, 11 and 12 of the 1999 Offshore Regulations and regulations 13 and 14 of the 1999 Pipe-lines Regulations are amended to this effect.

There is also a universal amendment to all three sets of regulations so that all references to four weeks or 28 days are changed to 30 days, in line with Article 6(7) of the EIA Directive.

### Part 1

Regulation 3 (interpretation) of the 1999 Offshore Regulations is amended by introducing a new definition of “appropriate particulars”. This incorporates new requirements set out in Annex IIA of the EIA Directive. Other amendments introduce new definitions as a consequence of amendments made elsewhere by these Regulations.

New regulations 3A (environmental impact assessment) and 3B (environmental statement) set out the environmental impact assessment process and a new definition of environmental statement.

Regulation 5 (agreement of Secretary of State in respect of relevant projects) is amended by introducing requirements to coordinate approaches when preparing an environmental statement and a Habitats Regulation Assessment for the same project; and to obtain advice on the environmental statement from those with expert knowledge.

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<sup>(27)</sup> OJ L 124, 25.4.2014, p 1.

<sup>(28)</sup> OJ L 26 28.1.2012, p 1.

<sup>(29)</sup> OJ L 175, 5.7.85, p 40.

<sup>(30)</sup> OJ L73, 3.3.97, p 5.



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New regulation 5A (decision as to whether agreement is to be given) sets out the process for making a decision re a project where an environmental statement has been submitted, including conditions to be attached to the decision, timeframes and publicity requirements - and amendments to this effect are also made to regulation 11 (exercise by OGA of powers under licences).

Regulation 6 (provisions as to directions that no environmental statement need be prepared) is amended so that –

- where the Secretary of State directs that no statement is needed, the direction may include conditions to avoid significant adverse effects;
- in certain circumstances, the Secretary of State is able to direct that no application for a direction can be made;
- when deciding to give a direction, results of assessments carried out under other legislation for the areas likely to be affected by the project shall also be taken into account; and
- the Secretary of State must make a direction within 90 days of receiving an application except for exceptional cases where this time limit may be extended.

Regulation 7 (opinion by Secretary of State as to content of environmental statement) is amended so that the Secretary of State when considering the scope and level of detail to be included in the environmental statement shall take into account the specific characteristics of the project.

New regulation 13 (exempt projects) provides that a project having national defence or the response to a civil emergency as its purpose may be exempt from the effect of the 1999 Offshore Regulations; and a project may be also exempted, in whole or in part, if exceptional circumstances exist that the application of some of the provisions of the regulations would adversely affect the project.

There are also amendments to –

- regulations 5, 7, 8, 9, 10, 12A and 17A to ensure that any reference to environmental authorities is extended to those authorities with local or regional competence;
- regulations 5, 6, 9, 10, 11 and 12 to extend publicity requirements so that information is made publicly available via a website;
- regulations 5 and 12A to ensure that members of the public have at least 30 days to consider the environmental statement.

### Part 2

Regulation 2 (interpretation) of the 1999 Pipe-line Regulations is amended by introducing the new definition of “appropriate particulars”. Other amendments introduce new definitions in consequence of amendments made elsewhere by these Regulations or to update references.

New regulations 2A (environmental impact assessment) and 2B (environmental statement) set out the environmental impact assessment process and a new definition of environmental statement.

Regulation 3 (environmental statements) is amended so that in certain circumstances, the Secretary of State is able to direct that no application for an environmental determination can be made; and there is a requirement to coordinate approaches when preparing an environmental statement and a Habitats Regulation Assessment for the same proposed pipe-line works.

New regulation 3A (exempt pipe-line works) provides that proposed pipe-line works having national defence or the response to a civil emergency as their purpose, or proposed works that are the subject of an Act of Parliament or measures made under such an Act, may be exempt from the effect of the 1999 Pipe-line Regulations; and that proposed works may also be exempted, in whole or in part, if exceptional circumstances exist so that the application of some of the provisions of the regulations would adversely affect the works.



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Regulation 6 (requests to the Secretary of State for an environmental determination) is amended so that -

- when the Secretary of State makes a determination, a written statement setting out the main reasons for the determination is to be provided, and where it is decided that the proposed works are non EIA development, the determination may include conditions to avoid significant adverse effects;
- when responding to a determination, results of assessments carried out under other legislation for the areas likely to be affected by the proposed pipe-line works shall also be taken into account; and
- the determination must be made as soon as possible and within 90 days of receiving an application except for exceptional cases where this time limit may be extended.

Regulation 11 is amended so that information which the Secretary of State requires the public gas transporter to provide is limited to being information relevant to enabling the Secretary of State to reach the reasoned conclusion in regulation 14 (consent to pipe-line works).

Regulation 14 is amended to incorporate the process for making a decision re proposed pie-line works for which an environmental statement has been submitted including conditions to be attached to the decision, timeframes and publicity requirements.

Regulations 8 (availability of directions, determinations etc. for inspection), 10 (publicity for environmental statements) 11, 11A (additional information and publicity) and regulation 13 (projects affecting other member states) and 14 are amended to extend publicity requirements so that information is made publicly available via a website.

New regulation 19 inserts a review clause.

### Part 3

Regulation 2 (interpretation) of the 2000 Regulations is amended by introducing the new definition of “appropriate particulars”. Other amendments introduce new definitions in consequence of amendments made elsewhere by these Regulations.

New regulations 2A (environmental impact assessment) and 2B (environmental statement) set out the environmental impact assessment process and a new definition of environmental statement.

New regulation 2C (exempt pipe-line works) provides that relevant pipe-line works having national defence or the response to a civil emergency as their purpose, or works that are the subject of an Act of Parliament or measures made under such an Act, may be exempt from the effect of the 2000 Regulations; and relevant pipe-line works may also be exempted in whole or in part if exceptional circumstances exist that the application of some of the provisions of the regulations would adversely affect them.

Regulation 3 (grant of pipe-line construction authorisation etc.) is amended so that there is a requirement to coordinate approaches when preparing an environmental statement and a Habitats Regulation Assessment for the same pipe-line works and to incorporate the process for making a decision re relevant pie-line works for which an environmental statement has been submitted, including conditions to be attached to the decision, timeframes and publicity requirements.

Regulation 4 (direction that no environmental state need be prepared) is amended so that –

- in certain circumstances, the Secretary of State is able to direct that no application for a direction can be made;
- that when deciding whether to give a direction, the results of assessments carried out under other legislation for the areas likely to be affected by the proposed works shall also be taken into account; and



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- the determination must be made as soon as possible and within 90 days of receiving an application except for exceptional cases where this time limit may be extended; and
- when the Secretary of State give a direction, a written statement setting out the main reasons is to be provided, and where it is decided that the EIA statement does not need to be accompanied by an environmental statement, the direction may include conditions to avoid significant adverse effects.

Regulation 5 (pre-application opinion by the Secretary of State etc.) is amended so that the Secretary of State when considering the scope and level of detail to be included in the environmental statement shall take into account the specific characteristics of the relevant pipe-line works.

Regulation 8 is amended so that so that information which the Secretary of State requires the applicant to provide is limited to being information relevant to enabling the Secretary of State to reach the reasoned conclusion in regulation 3.

Regulations 3, 4, 7 (publicity for environmental statements), 8 (further information and evidence etc.), 8A ( additional information and publicity) and 10 (projects affecting other EEA States) are amended to extend publicity requirements so that information is made publicly available via a website.

New regulation 16 inserts a review clause.

Regulations 22, 41, and 57 of these amending Regulations make transitional and savings provisions for the 1999 Offshore Regulations, the 1999 Pipe-line Regulations and 2000 Regulations respectively.

A full impact assessment has not been produced for this instrument as no significant impact on the private sector is foreseen.