

# Implementation of the New EIA Directive: One month to go



The new Environmental Impact Assessment (EIA) Directive (2014/52/EU) is due to be transposed into UK legislation on 16 May 2017.

The new Directive seeks to ensure that 'proportionate' and high quality EIAs are undertaken across the EU. Responding to challenges which have emerged in the twenty five years since the adoption of the original Directive, increased emphasis has also been placed on areas such as resource efficiency, climate change and disaster prevention. It has been up to member states to determine the appropriate means of implementing the provisions of the EIA Directive and consultation has taken place on the new draft regulations in England, Scotland, Wales and Northern Ireland. This has resulted in slightly different interpretations of some of the key requirements of the Directive. It remains to be seen whether these differences in the draft regulations will remain when the final regulations are published on 16 May.

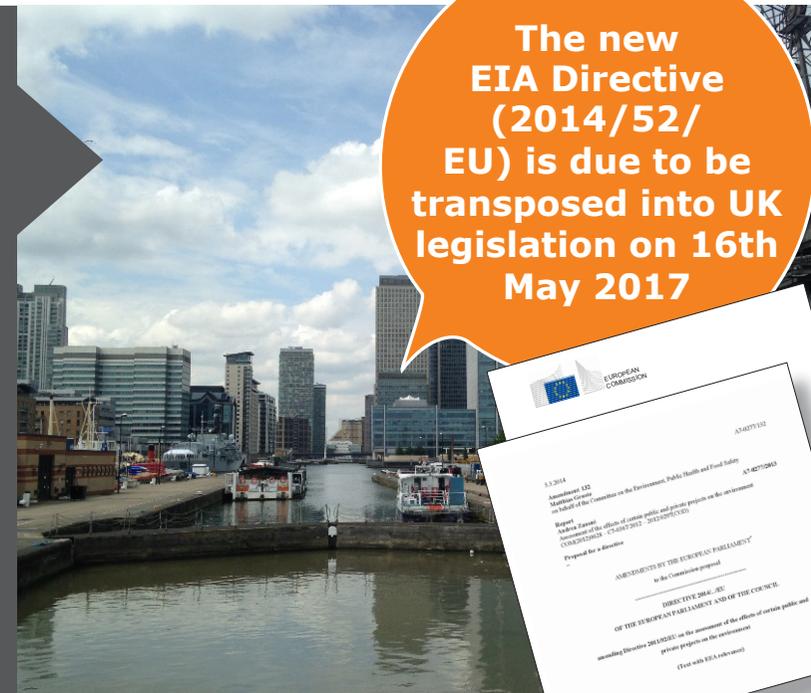
To assist both our own in-house EIA team and our clients in preparing for the new EIA regulations, we have compiled a checklist of ten key areas of change.

We will be monitoring how EIA practice evolves when the new regulations are implemented and providing further updates as things progress.

Read the full EIA Directive amendments here:

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0052&from=EN>

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LUC has been a Registrant of the IEMA Quality Mark Scheme since it was established and has played a pioneering role in EIA in the UK since the 1970s. We provided comments to Government on the proposed wording of the new Regulations and, via IEMA, provided feedback to the EC in relation to the proposed revision of the EIA Directive.

For further information please contact us on  
**EIA@landuse.co.uk**

# What is changing?

## Checklist of ten key areas of change

### 3 Topic areas for consideration

A number of new environmental topics will require consideration at all stages including biodiversity, climate, land and human health. Consideration will also need to be given to any predicted effects resulting from the vulnerability of the project to major accidents and/or disasters relevant to the project.

### 4 Project description

The project description will be required to include demolition works, where relevant. It will also be a requirement to describe the quantities and types of construction waste which will be generated.

### 7 Assessment of 'reasonable alternatives'

The definition of 'reasonable alternatives' to be considered in the assessment has been expanded to include reference to alternatives associated with project design, technology, location, size and scale. However, as the Directive still refers to the alternatives 'studied by the developer', this may be interpreted by some to mean no change.

### 8 Reporting outputs

The findings of the EIA will be presented in an 'Environmental Impact Assessment (EIA) Report' and not in an 'Environmental Statement'.

### 9 Monitoring requirements

Monitoring of any significant adverse effects identified after mitigation will be required to ensure the implementation of mitigation measures and to measure their effectiveness. This includes measures to 'identify unforeseen significant adverse effects'.

### 1 Screening

Requests for Screening Opinions will become more comprehensive. Supporting information will be required on the use of natural resources, the waste produced, and on likely impacts on a number of new topic areas (see 3. below). Information may also be provided on any integrated design measures and mitigation proposed to avoid or reduce impacts, to enable these to be taken into account in the Screening decision.

As with the current Directive, Developers will be required to submit Screening Reports for projects listed in Annex II of the Directive, which remains unchanged.

### 2 Scoping

Scoping remains voluntary. However, if a Scoping Opinion is requested, there will now be a requirement to base the EIA on the Scoping Opinion received.

Note: If a project is scoped before the amended UK Regulations come into force in May '17, the application will be processed in accordance with the current EIA regime.

### 5 Baseline scenario

There is a new requirement to outline the likely evolution of the baseline scenario in the absence of the development, as far as this can be assessed 'with reasonable effort' on the basis of available information and scientific knowledge.

### 6 Assessment of effects

Main uncertainties associated with forecasting methods must now be described. Cumulative effects have also been defined as those arising from the development with other existing and approved developments (there is no requirement as such to consider projects in the planning process).

### 10 Use of 'competent experts'

The EIA Report will need to be prepared by 'competent experts' and determining authorities will have to ensure that they have, or have access to, sufficient expertise to examine the EIA Report. The Scottish Government has not defined 'competent expert' however in England and Wales the draft Regulations proposed that local authorities be responsible for deciding if the ES has been prepared by a 'competent expert'. This has raised concerns regarding the potential risk of delay and costs for a developer should a local authority disagree with an EIA professional's credentials. Notwithstanding this uncertainty, it is expected that IEMA's EIA Quality Mark registration scheme will have a key role to play in ensuring the use of competent experts in the UK.