

REGULATORY APPRAISAL

AGRICULTURE, WALES

THE ENVIRONMENTAL IMPACT ASSESSMENT (UNCULTIVATED LAND AND SEMI-NATURAL AREAS) (WALES) (AMENDMENT) REGULATIONS 2007

Background

1. European Council Directive 85/337/EEC, as amended by Directives 97/11/EC and 2003/35/EC, make certain categories of development subject to formal Environment Impact Assessment (EIA). These Directives dictate that new building projects, or significant redevelopments, which have a potential effect on the environment, must be subject to a formal assessment. Directive 85/337/EC was originally implemented in Wales by The Environmental Impact Assessment (Uncultivated Land and Semi-natural Areas) (Wales) (Amendment) Regulations 2002.

Purpose and intended effect of the measure

2. These Regulations transpose the Public Participation Directive (European Council Directive 2003/35/EC), which provides for the participation of members of the public in the EIA process, into Welsh legislation. Essentially, this means that the National Assembly for Wales will be legally required to publish, on a relevant website, details of an application for consent to carry out a building project, which is subject to an EIA. These details will be published on the Welsh Assembly Government (WAG) website. The National Assembly will also be required to publish details of any representations made by members of the public in relation to that project when it publishes the decision to grant or refuse consent to its continuation.
3. In addition, these Regulations update references in The Environmental Impact Assessment (Uncultivated Land and Semi-natural Areas) (Wales) (Amendment) Regulations 2002.

Risk Assessment

4. If this Instrument is not made the legislation in Wales will not comply with the European Directive. Therefore, the National Assembly for Wales could face infraction procedures as a result.

Options

5. In respect of this legislation the “Do nothing option” is not an option as it would lead ultimately to infraction proceedings against the National Assembly for Wales by the European Commission. Therefore, the “Make the legislation” option to implement the changes required to comply with European legislation, is being recommended.

Benefits

6. Having an element of public participation in Environmental Impact Assessments (EIA) will ensure that the input and knowledge of stakeholders will improve the standard of the assessments.

Costs

7. There will be no costs to the Assembly as a result of implementing these Regulations.
8. There will be no financial effect on business arising from the introduction of these Regulations. Businesses are already required to carry out an EIA if they undertake a project that may have an effect on the environment. Adding a level of public participation to this process will not entail any extra cost.

Competition Assessment

9. There will be no issues of competition associated with the implementation of these Regulations.

Consultation

With Stakeholders

10. No consultation was undertaken in relation to these Regulations, as the proposed changes will bring the legislation in Wales in line with European legislation. Therefore, it is unlikely that the Welsh Assembly Government would be in a position to act on suggestions raised as a result of any consultation response. Stakeholders will be informed of the introduction of these Regulations, once they have been made, via a separate item on the relevant part of the WAG website. However, in future it will be standard practice to carry out a consultation exercise with Stakeholders in relation to all legislation of this nature.

With Subject Committee

11. These Regulations were notified to the Environment, Planning and Countryside Committee, via the list of forthcoming legislation, on 24 May 2006 (EPC(2)-08-06 (p.3) Annex 1, item no.12). They were not identified for detailed scrutiny.

Review

12. Although there will be no formal review of this legislation, officials for the Welsh Assembly Government's Environment, Planning and Countryside Division will carry out an ongoing assessment of its impact on the EIA process. In addition, checks will be carried out to ensure continuing compliance with the EC Directive.

Summary

13. These Regulations are being introduced to transpose European Council Directive 2003/35/EC on Public Participation into domestic legislation. This will ensure compliance with EC law, thus avoiding infraction proceedings against the United Kingdom being undertaken by the European Commission.