

Environmental Assessment



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Topics

1. How did we get here?
2. What explanation has been provided?
3. Outline of the new process.
4. Key concepts.

1. How did we get here?

- Planning For the Future – White Paper @ [3.22] – [3.35]
- “Ambitions in our 25 Year Environment Plan”
- “Pro-active role in promoting environmental recovery and long-term sustainability”
- “vital the environmental considerations are considered properly”
- “current frameworks” [EIA, SEA, SA] “can lead to duplication of effort and overly-long reports which inhibit transparency and add unnecessary delays”
- “outside of the European Union, it is also important that we take the opportunity to strengthen protections”
- “quicker and speed up decision-making”
- “considered early in the process and to clear timescales”
- requirements need to be “simpler”; “consolidated”; “same impacts and opportunities do not need to be considered twice”
- “meeting our domestic and international obligations”

2. What explanation has been provide?

- Levelling Up and Regeneration: further information
- “foster better environmental outcomes”
- Environmental Outcome Reports (“EOR”) to replace EIA, SEA and SA.
- “clearer and simpler process”
- assessment “against tangible environmental outcomes set by government, rather than in Brussels”
- “join up between strategic and project scale assessments”
- “deliver more, not less, for the environment”

3. Outline of the new process

- **cl. 116** – specified outcomes relating to environmental protection in UK (or relevant offshore areas) – referred to as “specified environmental outcomes”
- **cl. 117** – requirement for EOR to be prepared in relation to relevant consent or plan – including prohibition on proceeding without an EOR
- **cl. 119** – assessment and monitoring of impact on environmental outcomes
- **cl. 123** – enforcement
- **cl. 124** – reporting by public authorities
- **cl. 126** – duty to have regard to new guidance

4. Key concepts (1)

- **cl. 116(1) - “specified environmental outcomes”**
 - “environmental protection” -
 - protection, maintenance, restoration, enhancement, monitoring, assessing, considering, advising or reporting;
 - natural environment; cultural heritage; landscapes; people – from the effects of human activity
 - “natural environment” – plants; wild animals; other living organisms; habitats; land (not buildings/structures); air; water; and their natural systems, cycles and processes.
 - “cultural heritage” - building; structure; other feature natural or built environment; “of historic, architectural, archaeological or artistic interest”
 - mandatory regard to current environmental improvement plan (Pt. 1 EA 2021).

4. Key concepts (2)

- **cl. 117 – “environmental outcomes report” (subject to EOR regulations)**
 - in writing
 - extent to which proposed consent/plan “would, or is likely to, impact on the delivery of specified environmental outcomes”
 - steps to: increase delivery EO; avoid non-delivery EO; mitigation of effects on EO (if not avoided); remediation of effects on EO (if not avoided or mitigated); compensation for effects on EO (if not avoided, mitigated or remediated)
 - steps to monitor or secure impact on EO
 - “steps” includes reasonable alternatives

4. Key concepts (3)

- **cl. 118 – “relevant consent” and “relevant plan”**
 - prescribed by EOR regulations
 - “category 1 consent” – will always be a relevant consent
 - “category 2 consent – may be a relevant consent – subject to criteria
 - “relevant plan”:
 - relates or may relate to a project or to environmental protection
 - and specified in EOR regulations
 - “consent”: consent; approval; permission; authorisation; confirmation; or decision; that is required or otherwise provided for, by or under any enactment in relation to a project
 - “project”: construction, engineering, demolition, dismantling, decommissioning, installation, depositing, removal, exploitation of natural resources, change of use, any other activity capable of affecting natural environment, cultural heritage or landscape

4. Key concepts (4)

- **cl. 120 – non-regression & safeguards**
 - power to make EOR regulations - “only if satisfied that making the regulations will not result in environmental law providing an overall level of environmental protection that is less than that provided by environmental law at the time this Act is passed”
 - no inconsistency with international obligations
 - keep public informed of any proposed relevant consent/plan – sufficient detail – sufficiently early stage – “adequate public engagement” - “as the SoS considers appropriate”
- **cl. 120 – exemptions**
 - national defence or preventing or responding to civil emergency
 - power to make exempting directions

Thank you for listening

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