

EXPLANATORY MEMORANDUM TO THE ENVIRONMENTAL IMPACT ASSESSMENT (AGRICULTURE) (WALES) REGULATIONS 2007.

This Memorandum has been prepared by the Department for Sustainability and Rural Development and is laid before the National Assembly for Wales.

Description

These Regulations will comply with specific requirements of the EIA Directive and apply new rules under which restructuring projects will also be subject to the EIA process.

Matters of special interest to the Subordinate Legislation Committee.

None

Legislative Background

The powers enabling this instrument to be made are contained in section 2(2) of the European Communities Act (ECA) 1972. The powers have been transferred to Welsh Ministers, to make regulations relating to the requirement for an assessment of projects likely to have significant effects on the environment, by virtue of the European Communities (Designation) (No.2) Order 2001 (S.I. 2001/2555) and to make regulations for matters relating to the conservation of natural habitats and of wild fauna and flora by virtue of the European (Designation) Order 2002 S.I.2002/248. This legislation will be made using the negative resolution procedure.

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 implemented in Wales by the Environmental Impact Assessment (Uncultivated Land and Semi-natural Areas) (Wales) (Amendment) Regulations 2002.

Purpose and intended Effect of the Legislation

These Regulations introduce new EIA rules which will apply to projects for the restructuring of rural land holdings; to physical works that give a significantly different arrangement to parts of a rural land holding such as the removal or addition of large lengths of field boundaries, or filling in, or excavating ponds. The Regulations will apply mainly to farmers and other managers of agricultural land. They will not apply to non-agricultural land. They will apply only to projects that involve changes to more than four kilometres of field boundaries, movements of more than 10,000 cubic metres of earth or rock, or otherwise restructure an area in excess of 100 hectares. In sensitive areas the thresholds are less; 2km, 5,000 cubic metres and 50 hectares.

This will ensure that smaller scale changes which are part of routine farming will not be restricted. The Regulations also avoid overlap with similar regulatory regimes by specifically excluding work which is covered by forestry projects, development under the

planning system, land drainage and water management projects, removal of hedgerows and work on common land.

The Public Participation Directive (European Council Directive 2003/35/EC), provides for the participation of members of the public in the EIA process. This means that the Welsh Assembly Government will be legally required to publish details of an application to carry out a restructuring project. These details will be published on the Welsh Assembly Government website. The 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.

Implementation

Similar legislation was made in England last October and in Scotland in January 2007. Northern Ireland plan to publish their legislation around the same time as us.

Consultation

No consultation was undertaken on this matter, as the proposed changes will bring the legislation in Wales in line with European legislation. It is unlikely therefore that the Welsh Assembly Government would be in a position to act on suggestions made as a result of any consultation response. However, once the Regulations have been made, stakeholders will be informed by an article in the GWLAD magazine, amended guidance notes which will be sent to every farmer, and we will arrange a separate item on the relevant part of the Assembly's website.

A Regulatory Impact Assessment has not been carried out since there will be no costs to the Assembly as a result of implementing these Regulations, neither will there be any financial impact on business, local Government or the voluntary sector. The Regulations will not affect particular racial groups, income groups, or people with disabilities.