

A Guide to
The Environmental Impact Assessment
(Agriculture) Regulations (Northern Ireland)
2007
(as amended)

The Environmental Impact Assessment (Agriculture) Regulations (Northern Ireland) 2007 (as amended) are administered by the *Department of Agriculture, Environment and Rural Affairs* (DAERA), hereafter called 'the Department'. Within this guide, this legislation will be referred to simply as 'the Regulations'.

This guide to the Regulations is intended to help farmers and other land managers who may be affected.

If you still have questions after reading this guide, please contact DAERA Countryside Management Unit for advice, as follows:

DAERA
Countryside Management Unit
Academy House
121A Broughshane Street
Town Parks
Ballymena
BT43 6HY

Telephone: [0300 200 7842](tel:03002007842)
Email: eia@daera-ni.gov.uk

EIA Screening Decisions forms can be downloaded from the link:

<https://www.daera-ni.gov.uk/publications/environmental-impact-assessment-application-forms-and-guidance>

1. What are the Regulations for?

The Regulations seek to protect environmentally important agricultural land and landscapes.

They also allow Northern Ireland to comply with the terms of *EU Directive 2011/92/EU* ('the EIA Directive').

Put simply, the Regulations mean that you must obtain the Department's consent before you carry out certain kinds of work on your farm.

2. Am I affected?

The Regulations apply to 2 different types of 'project':

- projects which increase the productivity for agriculture of uncultivated land or semi-natural areas.
- projects which physically restructure rural landholdings.

Land is considered to be uncultivated if it has not been subject to physical or chemical cultivation in the last 15 years.

Semi-natural areas include a range of semi-natural vegetation types and include sensitive areas such as Areas of Special Scientific Interest, Special Areas of Conservation and Special Protection Areas. Further details are given in Annex 1 below.

The diagram on the following pages will help you decide if the work you plan to carry out might need the Department's consent before you begin.

Examples of the range of projects likely to be subject to the Regulations are given in Annex 2. This list is not exhaustive and if you are in any doubt you should contact the Department for advice (see page 2).

Do my works require EIA (Agriculture) Regulations consideration?

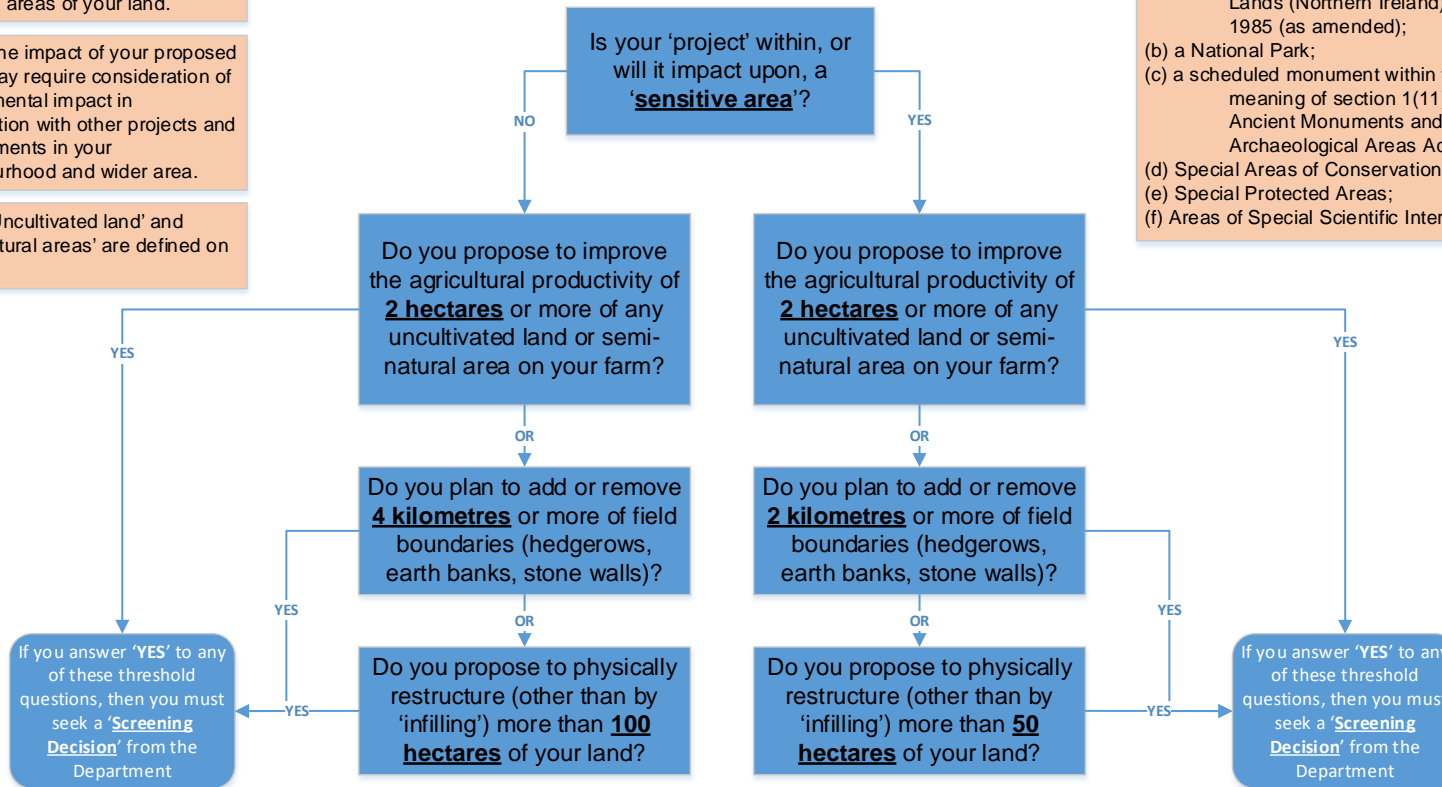
Note: Your proposed works may constitute a single 'project' even if you intend to conduct works in stages over several years, and even if the 'project' occurs in separate areas of your land.

Note: The impact of your proposed works may require consideration of environmental impact in combination with other projects and developments in your neighbourhood and wider area.

Note: 'Uncultivated land' and 'semi-natural areas' are defined on page 3.

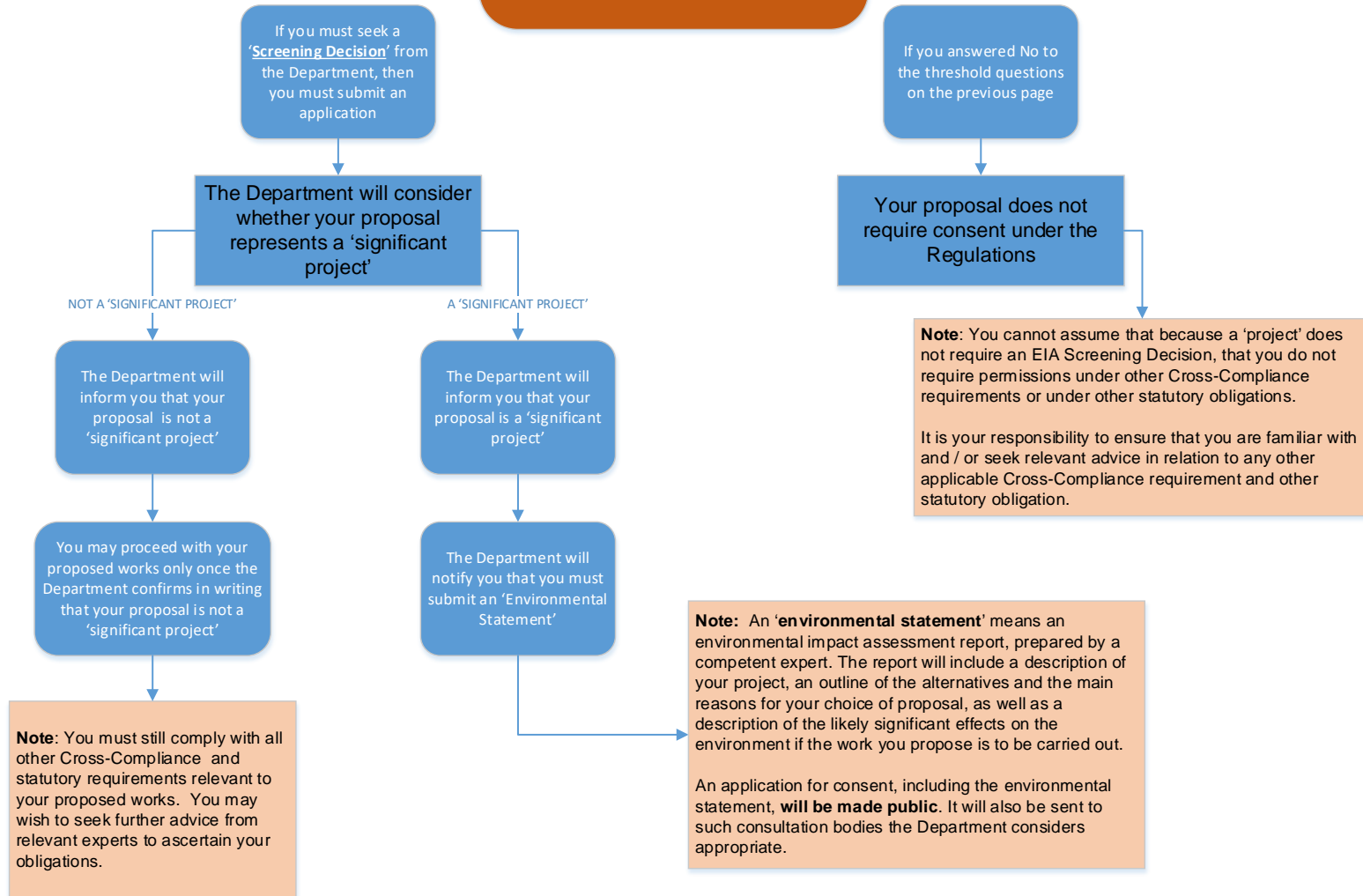
"sensitive area" means—

- (a) an area of outstanding natural beauty designated as such by an Order under the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 (as amended);
- (b) a National Park;
- (c) a scheduled monument within the meaning of section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979;
- (d) Special Areas of Conservation;
- (e) Special Protected Areas;
- (f) Areas of Special Scientific Interest.



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3. Are all projects affected?

The Regulations require DAERA consent for work that affects an area of land or field boundary over a certain size or length (the 'threshold'). Below the threshold, work can proceed without DAERA's consent, unless the land is in a 'sensitive area' (as defined in section 4 below.)

You will need DAERA's prior consent if you propose to carry out any operation to:

- increase the agricultural productivity of 2 or more hectares of uncultivated land or a semi-natural area
- physically restructure 100 hectares or more of land (50 hectares or more if any of the land is in a 'sensitive area')
- physically restructure your farm by removing 4 kilometres or more of field boundaries (2 kilometres or more if the land is in a 'sensitive area')
- undertake any of the above operations which over an extended period may cumulatively exceed the relevant threshold

Note: that if the Department suspects a project of any size, which is likely to be carried out, is likely to have a significant effect on the environment even though it falls below the thresholds, then the Department has power to serve a Screening Notice directing that the thresholds do not apply to an area of land, as the Department considers that the project would be likely to have significant effects on the environment.

4. What is a 'sensitive area'?

The following sensitive areas are present in Northern Ireland:

- **Special Areas of Conservation (SAC)**
- **Special Protected Areas (SPA)**
- **Areas of Special Scientific Interest (ASSI)**
- **Areas of Outstanding Natural Beauty (AONB)**
- **Scheduled Monuments**
- **National Parks**

You can view all of these areas (*apart from Scheduled Monuments - for which see below*) on the *Natural Environment Map Viewer* by clicking on the link <https://www.daera-ni.gov.uk/services/natural-environment-map-viewer>

You will need consent from the DAERA's Northern Ireland Environment Agency (NIEA) before carrying out any work that might affect land in any of these areas.

It is a criminal offence to damage any natural feature designated as an ASSI, SPA or SAC.

Further information on designated sites can be obtained from NIEA Conservation, Designations and Protection Branch <https://www.daera-ni.gov.uk/topics/biodiversity-land-and-landscapes/protected-areas>

Any proposal received by DAERA to carry out work in an AONB, SAC, SPA or an ASSI will be referred to NIEA.

Scheduled and Unscheduled Historic Monuments

You can view Scheduled Historic Monuments on the *Historic Environment Map Viewer* by clicking on the link:

<https://www.communities-ni.gov.uk/services/historic-environment-map-viewer>

It is an offence to carry out changes to such structures without consent from the Department for Communities (DfC).

DAERA will contact DfC if we are made aware of any proposal to carry out work in a Scheduled Historic Monument.

5. How do I get consent?

If you propose to carry out a project which meets any of the conditions set out in section 3 and 4, you may not proceed without consent from DAERA.

To apply for consent, you must make a screening application to DAERA, giving details of the work you propose to carry out. You must also include a description of the aspects of the environment likely to be significantly affected by the work and of any features or measures to avoid or prevent any likely significant adverse effects on the environment.

Application forms can be requested using the contact details on page 2 above.

DAERA will assess your application and inform you of our screening decision within 35 days.

If your proposal is considered unlikely to have a significant effect on the environment, you will be free to proceed, subject to any other statutory regulations that may apply.

If your proposed project is considered likely to have a significant effect, work may not proceed without DAERA consent.

If consent is needed, you must make a further application to DAERA which includes an environmental statement.

The environmental statement should be prepared by a competent expert and is required to include information as described in Schedule 3 of *The Environmental Impact Assessment (Agriculture) Regulations (Northern Ireland) 2007* (as amended).

DAERA will check your application, including the environmental statement, and consult the public and others if necessary. We will then make a consent decision on whether or not the project may proceed.

6. What if I go ahead regardless?

You may be prosecuted if you fail to follow the procedures outlined in section 5, and you may have to carry out work at your own expense to return the land to its previous condition.

Any payments you receive from the Department's area-based schemes may be affected if you breach the Regulations.

7. Stop Notices and Reinstatement Notices

The Department can serve a Stop Notice if it considers that you have started work on a project without the necessary consent (that is, a positive screening decision or a consent decision where needed).

A Stop Notice will require you to stop work, usually pending an investigation by the Department of a possible breach of the Regulations. A Stop Notice takes immediate effect once it is served. It is an offence to contravene a Stop Notice.

The Department can serve a Reinstatement Notice if it considers that work has been carried out without the necessary consent. Reinstatement Notices may require that land is reinstated to its previous condition, or that some other action is taken to return the land to good environmental condition.

It is an offence to contravene a Reinstatement Notice. Failure to abide by the terms of a Reinstatement Notice may result in the Department carrying out the work itself and charging you for any cost incurred.

Any payments you receive from the Department's area-based schemes may be affected if you contravene a Stop or Reinstatement Notice.

8. Offences

The Regulations create a number of prosecutable offences. It is an offence to:

- carry out work without consent required by the Regulations (that is, a positive screening decision or consent decision);
- carry out any activity in contravention of a consent decision;
- when procuring a decision on an application made under the Regulations, knowingly or recklessly supply false or misleading information, or withhold information, with intent to deceive;
- contravene a Stop Notice, a Reinstatement Notice, or a Screening Notice issued in accordance with the Regulations.

9. Appeals

The Regulations allow you to appeal against notices issued, and decisions made by the Department.

An appeal against a decision must reach the Department within 90 days of the date the person was notified of the relevant decision.

An appeal against a notice must be served on the Department within 28 days of the date of service of the relevant notice.

Details of the grounds on which you may appeal against a Screening Notice, Stop Notice or Reinstatement Notice, and the procedure by which such appeals will be determined, are set out in Part 5 of *The Environmental Impact Assessment (Agriculture) Regulations (Northern Ireland) 2007* (as amended).

10. Cross-Compliance

The Environmental Impact Assessment (Agriculture) Regulations (Northern Ireland) 2007 (as amended) is a discrete stand-alone piece of legislation.

It is important to note, however, that the Regulations are highlighted specifically within GAEC 6 of the 'Cross-Compliance' requirements for EU area-based schemes. Therefore, a breach in relation to the Regulations may also have an impact upon payments received for area-based schemes, i.e. a Cross-Compliance penalty may be imposed in addition to and separate from any penalties directed by the Regulations themselves.

Whereas the Regulations define various thresholds, it is important to note that these thresholds are specific to the Regulations. It cannot be inferred that these thresholds relate to any other SMR or GAEC standards within Cross-Compliance requirements. Therefore, because a 'project' does not

reach an EIA threshold, it cannot be assumed that other Cross-Compliance or statutory obligations are not triggered.

Further information on the Northern Ireland Cross-Compliance verifiable standards can be found at: <https://www.daera-ni.gov.uk/articles/cross-compliance>

Annex 1:

TYPES OF LAND CONSIDERED TO BE SEMI-NATURAL AREAS ¹

Semi-natural habitats

<i>Calcareous grassland</i>	The habitat is found on well drained soils rich in chalk, limestone or other bases, usually with a pH>6. Characteristic is the presence of lime-loving plants not found in other habitats.
<i>Acid grassland</i>	Found on very dry acid soils in the lowlands or damp acidic grasses on gleys or shallow peats elsewhere, usually with a pH < 5.5, Characteristic is the presence of acid-tolerant plants not found in other habitats. This includes all moorland that has been heavily grazed to the exclusion of the heather cover.
<i>Bracken</i>	Areas with a continuous canopy cover of bracken at the height of the growing season. It does not include areas with scattered patches of bracken <0.10 ha, which should be recorded in the habitat type in which the bracken is growing.
<i>Dwarf shrub heath</i>	The habitat is characterised by >25% cover of dwarf shrubs, including heather (ling), heath, or dwarf gorse. This includes all moorland and lowland heathland.
<i>Fen, marsh and swamp</i>	This habitat is found on groundwater fed permanently or periodically waterlogged peats or mineral soils. Fens occur on peats, where rainfall, groundwater and run-off maintain waterlogged conditions for most of the year. Swamps are characterised by tall stands of emergent vegetation (standing in water for part of the year) – this includes reed beds. Marshes refer to fen meadows and rush pasture, which have the appearance of species-rich grassland but will be waterlogged at least for the winter period.
<i>Bog</i>	Peat forming vegetation associated with Sphagnum (bog) mosses.
<i>Montane habitats</i>	Vegetation above the tree line. (i.e. usually over 600 metres above sea-level)
<i>Inland rock</i>	Naturally and artificially exposed rock > 0.10 hectares, such as inland cliffs, caves, screes and pavements as well as waste tips.

¹ Where farmers or land managers are uncertain whether their land qualifies as semi-natural they should contact DAERA for advice.

Neutral grassland	<p>Characterised by vegetation dominated by grasses and herbs on a range of soils (usually pH of 4.5-6.5). It includes enclosed dry hay meadows and pastures in the uplands and lowlands.</p> <p>All neutral grassland types are considered semi-natural, except the semi-improved grassland types (corresponding to National Vegetation Classification type MG6) which have been modified by the addition of inorganic fertiliser in the last 15 years.</p>
Broad-leaved, mixed and yew woodland	<p>Woodland above a certain threshold is considered under the EIA (Forestry) Regulations. Contact DAERA Forest Service.</p> <p>Other areas of semi-natural scrub (having colonised naturally) are included as semi-natural areas.</p>
Standing water and canals	<p>This includes natural systems such as lakes, meres and pools, as well as man-made waters such as reservoirs, canals, ponds and gravel pits. It includes the open water zone (which may contain submerged, free-floating or floating-leaved vegetation) and water fringe vegetation. Ditches with open water for at least the majority of the year are also included in this habitat type.</p>
Species-rich upland or lowland hay meadow	<p>Characterised by vegetation dominated by grasses and herbs on a range of soils usually with a pH of 4.5-6.5. It includes enclosed dry hay meadows that have been managed with the annual or periodic addition of organic manures or low levels of inorganic fertilisers in both the uplands and lowlands,</p>
Coastal and Floodplain Grazing Marsh	<p>Long term grassland within river or coastal floodplains which has not had physical cultivation of the soil in the last 15 years and which has wet or waterlogged soils in spring. Standing water or 'splash' conditions are likely for prolonged periods between 1st March and 31st May. The land may have been managed with annual or periodic addition of organic manures or low levels of organic fertiliser.</p>

Annex 2

Projects on uncultivated land and/or semi-natural areas

Typically, projects on uncultivated land and/or semi-natural areas likely to fall into this category might include:

- physically cultivating soil (for example, by ploughing, disturbing the topsoil, tine harrowing, or rotavating);
- increased application levels of organic manures, slurries or inorganic fertiliser or soil improvers such as lime;
- sowing seed (for example of productive species like perennial ryegrass and white clover);
- draining land;
- intensifying livestock; or
- combinations of such projects.

Projects for the restructuring of rural land-holdings

Projects for the restructuring of rural land-holdings are physical operations which give a significantly different physical structure to the arrangement of one or more agricultural land-holdings and might include:

- removal or addition of substantial lengths of field boundaries such as hedge-banks, walls, fences, ditches or tracks;
- re-contouring of rural land, for instance by moving large quantities of earth and rock.

Annex 3

Land in agri-environment schemes

Land under habitat creation in agri-environment schemes (such as the Environmental Farming Scheme) will not be defined as semi-natural land for at least 15 years after the last cultivation.

Environmental management, reinstatement or remedial works or activities that are required under the EIA regulations will not be eligible for government funding such as under agri-environment schemes.