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# Environmental Impact Assessment in relation to Water Resources Authorisations

Guidance on the requirements and procedures



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# Contents

<b>1</b>	<b>Introduction</b>	<b>2</b>
<b>2</b>	<b>Environmental Impact Assessment</b>	<b>4</b>
2.1	What is Environmental Impact Assessment?	5
2.2	When is Environmental Impact Assessment needed?	5
2.3	How is "significance" assessed?	5
2.4	Obtaining a ruling on the need for EIA	5
<b>3</b>	<b>EIA and projects requiring planning permission and an Environment Agency licence</b>	<b>6</b>
3.1	General	6
<b>4</b>	<b>EIA and projects requiring an Environment Agency licence</b>	<b>7</b>
4.1	General	7
4.2	Obtaining a screening opinion	7
4.3	Preliminary consultations	10
4.4	Obtaining a scoping opinion	10
4.5	The scope and content of the environmental statement	12
4.6	Other statutory and non-statutory consultees	13
4.7	Techniques of assessment	13
4.8	Publicity and model press notices	14
4.9	Submitting the environmental statement and licence application	15
4.10	Handling by the Agency	16
4.11	Requests for further information	16
4.12	Determination of application	16
4.13	Appeals and call-ins	16
4.14	Other reference material	17
<b>5</b>	<b>EIA and projects not requiring an Environment Agency licence</b>	<b>18</b>
5.1	General	18
5.2	What is a consent?	18
5.3	When is a consent required?	18
5.4	How to apply for a consent	18
Appendix 1	Selection criteria for relevant projects	19
Appendix 2	Requirements of the Regulations as to the content of environmental statements	20
Appendix 3	Model press notices	21
Appendix 4	Scoping advice for projects requiring an environmental statement	25
Appendix 5	Other reference material	28
	Glossary of terms and abbreviations	29

# Introduction

1.1 This document is intended primarily for developers and their advisers, and explains how the requirements for Environmental Impact Assessment (EIA) have been incorporated into the procedures for the granting of licences by the Environment Agency to abstract or impound water, or of consents in appropriate circumstances. EIA is an important technique for ensuring that the likely effects of new development on the environment are fully understood and taken into account before a development is allowed to go ahead. It also helps to ensure the sustainable use of resources.

1.2 This guidance describes the operation of the Water Resources (Environmental Impact Assessment) (England and Wales) Regulations 2003. It also gives advice on the need for EIA in relation to certain applications for a licence to abstract or impound water under Part II of Chapter II of the Water Resources Act 1991. This guidance also applies in cases where a licence is not required, and where a "relevant project" requires consent from the Environment Agency for the purposes of these Regulations.

1.3 This guidance is intended to complement and mirror, as far as relevant procedures permit, the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 Statutory Instrument 1999 No.293. Guidance on those Regulations is issued by the Department of the Environment, Transport and the Regions under DETR Circular 02/99 dated 12 March 1999 and former Welsh Office Circular 11/99 issued in 1999.

1.4 The EC Directive (85/337/EEC) on "The assessment of the effects of certain public and private projects on the environment" was adopted on 27 June 1985. That directive has now been amended by Council Directive (97/11/EC), which was adopted on 3 March 1997 and came into effect on 14 March 1999. The amended directive extends the range of projects covered by the original one,

to include those where "development consent" is required from the UK Environment Agency. The effect of the directives is to require EIA to be carried out, before development consent is granted, for certain types of projects which are judged likely to have significant environmental effects.

1.5 The amended directive was given legal effect through the Water Resources (Environmental Impact Assessment) Regulations 2003 Statutory Instrument 2003 No 164. It applies EIA to water management projects for agriculture, including irrigation. The Regulations impose procedural requirements in relation to the consideration of certain applications or proposals for an abstraction or impounding licence. If the project concerned is not subject to licensing, the need for a consent is introduced where EIA is required.

## The Regulations:

- require an EIA to be carried out for all water management projects for agriculture (including irrigation projects) which would be likely to have significant effects on the environment due to their nature, size or location. Projects involving the abstraction of water are only included if the amounts abstracted exceed 20 cubic metres in any 24 hours. The Regulations do not apply if the project is subject to EIA under any other legislation.
- provide the procedure for determining whether a water management project requires an EIA, and require an environmental statement to be provided where an EIA is deemed necessary. If the person making the request is dissatisfied with the Agency's determination, they may apply to the appropriate Minister to make his own determination.
- set out the information which an environmental statement must contain. The Agency is required to give an opinion on the content of an environmental statement if so requested.



- require any environmental information to be publicised in the same way (and, ideally, at the same time) as the application.
  - state that the Agency should have regard to the environmental information provided and any representations received in determining the application.
  - provide for relevant projects, which require consent under these Regulations in cases where an Agency abstraction or impounding licence is not required. The Regulations make it an offence to begin such a project without the Agency's consent or to carry it out except in accordance with the provisions of the consent.
  - allow for appeals to be made to the appropriate minister where the applicant is dissatisfied with the Agency's decision on an application for consent.
- The Regulations came into force on 1 April 2003, and apply to applications lodged on or after that date.
- 1.6 The Agency is responsible for the protection of the water environment and regulates the abstraction and impoundment of water, primarily by means of the licensing system. Its duties include an obligation to further conservation while balancing the needs of the environment and abstractors. In order to carry out these duties, and to assess the impact of development proposals, the Agency requires environmental information to be presented in support of applications for development consent.
- 1.7 The requirements of the EIA Regulations supplement those of other legislation under which the Agency operates. In most cases, work that satisfies the EIA Regulations will also satisfy the other legislation.
- 1.8 Part 2 of this guidance provides an overview of the EIA process and gives advice on when an EIA is needed and how the requirement for an environmental statement is assessed.
- 1.9 Parts 3, 4 and 5 give more detailed information on the procedures that apply in particular situations, as explained in the following paragraphs.
- 1.10 Part 3 gives a brief account of the arrangements for relevant projects, within the scope of the directives, which require an Agency licence and planning permission. In such cases, the planning authority determines the need for EIA, while the Agency will deal directly with the applicant regarding a licence to abstract or impound water.
- 1.11 Part 4 covers the procedure to be followed for projects requiring an Agency licence and EIA but which do not require planning permission. It explains how to prepare an environmental statement and complete the consultation process.
- 1.12 Part 5 deals with projects that fall within the scope of the Regulations but where the abstraction is exempt from licensing control and does not require planning permission. In such cases, the Agency will consider the impact of the proposed development on the environment and determine whether to grant a consent under the Regulations, to allow the developer to proceed with the project.
- 1.13 A glossary explains the technical or legal terms or abbreviations used in this document.
- 1.14 The full text of the Water Resources (Environmental Impact Assessment) Regulations 2003 is available separately from the Stationery Office Limited.

# Environmental Impact Assessment

## 2.1 What is Environmental Impact Assessment?

2.2.1 The term "Environmental Impact Assessment" describes a technique and a process by which information about the environmental effects of a project is collected by the developer, both as new data and from other sources. This information is taken into account by the appropriate regulatory body in deciding whether the development should go ahead. Where appropriate, the Agency already requires developers to provide information, including information about environmental effects, it considers necessary to determine a licence application. The Agency must take this information into account when considering an application. EIA is now well established in other development consent procedures in the UK, and aims to provide a systematic analysis, using the best practicable techniques and the best available sources of information. It prescribes, in broad terms, the presentation of information in a form that provides a focus for public scrutiny of the project. It will enable the Agency to evaluate the importance of predicted effects properly, and the scope for modifying or mitigating them, before a decision is taken.

2.1.2 Properly carried out, EIA will help everyone involved in the application process for a licence (or consent). From the developer's point of view, the preparation of an environmental statement alongside the project design provides a useful framework within which environmental considerations and design development can interact. Environmental analysis may indicate ways in which the project can be modified to anticipate possible adverse effects, for example through identifying a better practicable environmental option, or by considering alternative processes. A well-prepared environmental statement should reduce the likelihood of problems arising at the formal approval stages.

2.1.3 The requirement to prepare an environmental statement may at first sight seem an unwelcome addition to already complicated application procedures, but in many cases the

Regulations only bring forward work that would be undertaken at a later stage in the development of a project. This is particularly true of major projects where the developer would in any case be expected to provide full and detailed information about environmental effects. For other projects, the Government believes that EIA should apply only to projects whose likely impacts on the environment are of sufficient significance to warrant it.

2.1.4 For the Agency and other public bodies with environmental responsibilities, EIA should provide a basis for better decision-making. Swifter decisions may also be possible because the implications of a new project will be more thoroughly analysed before an application is made for a licence (or consent), and more comprehensive information is provided with the application. The developer is responsible for preparing the environmental statement, and is expected to consult those with relevant information. The Regulations specifically require that public bodies with information relevant to the preparation of an environmental statement should make it available to the developer, subject to any statutory provisions governing disclosure, and the payment of any reasonable charges.

2.1.5 The public's interest in a major project is often expressed as concern about the possibility of unknown or unforeseen effects. By providing a full analysis of a project's effects, an environmental statement can help to allay fears created by a lack of information. At the same time it can help to inform the public on the substantive issues which the Agency will have to consider in reaching a decision. The Regulations require that the environmental statement must include a description of the project and its likely effects, together with a summary in non-technical language. One of the aims of a good environmental statement should be to enable readers to understand for themselves how its conclusions have been reached, and to form their own judgements on the significance of the environmental issues raised by the project.



2.1.6 EIA can therefore be helpful to all those concerned with major projects. The following paragraphs describe the procedures for deciding whether EIA is necessary in a particular case and, where it is, for carrying out the assessment. The procedure is intended to make the most of the potential benefits of EIA, while keeping the process as simple and flexible as possible, and avoiding duplication with planning procedures.

## 2.2 When is EIA needed?

If a relevant project requires planning permission, the planning Regulations will apply and determine if an EIA is to be undertaken, even if an Agency licence is also required. The relevant planning authority will in this case determine the need for EIA and an environmental statement.

Environmental Impact Assessment needs to be undertaken for "relevant projects" under the Water Resources (Environmental Impact Assessment) Regulations 2003. A project is deemed "relevant" if:

- a it is a water management project for agriculture, including an irrigation project;
- b in the case of a project involving water abstraction, the amounts abstracted exceed 20 cubic metres in any period of 24 hours; and
- c it would be likely to have significant effects on the environment by virtue, inter alia, of its nature, size or location.

The fundamental test to be applied in each case is the likelihood of "significant environmental effects". The following guidance is indicative only, and, in determining whether significant effects are likely, the resource impact and location of a project are of crucial importance. Where a project is situated in or close to an environmentally sensitive area, the environmental effects are more likely to be deemed significant.

2.2.2 EIA is more likely to be required if the project would result in adverse effects on the water environment, and where the sustainability of the project is in doubt. This may be determined by assessing whether the project would have damaging wider impacts on the hydrology of the area and surrounding ecosystems. EIA will not normally be required for small-scale or routine water management projects undertaken by farmers.

## 2.3 How is "significance" assessed?

2.3.1 There can be no definitive interpretation of what constitutes "significance" in the context of the directives and Regulations. General guidance on how to assess "significance" is contained in DETR Circular 02/99 and Welsh Office Circular 11/99, and rulings may be obtained from the Agency or the regulatory authority on whether EIA is required in particular cases. Essentially, the circulars suggest that there are three main criteria of significance:

- a whether the project is of more than local importance, principally in terms of physical scale;
- b whether the project is situated in or near a particularly sensitive location, for example, a national park or Site of Special Scientific Interest (SSSI), and for that reason may have significant effects on the area's environment even though the project is not on a major scale;
- c whether the project is thought likely to give rise to particularly complex or adverse effects.

Criteria against which significance is assessed are set out in the Regulations. These relate to the characteristics of a project, its potential environmental effects and its location.

2.3.2 None of the above guidelines can be applied as hard and fast rules; circumstances are bound to vary greatly from case to case. Some large-scale projects may be unlikely to result in significant effects and therefore may not require EIA, while some smaller projects, particularly in sensitive locations, may be candidates for EIA. However, not all projects in sensitive locations will require EIA. Nevertheless, the guidance in the circulars should provide a starting point for consideration by the developer and the Agency of the need for EIA. If the matter is referred to the appropriate regulatory authority, they will have regard to the published criteria.

## 2.4 Obtaining a ruling on the need for EIA

2.4.1 Where there is doubt about the need for EIA for a project, a developer can obtain a decision from the Agency (referred to in this guidance as a "screening" opinion; see section 4.2) on whether a project is a "relevant project". The Agency advises that this be done before the submission of an application, in order to avoid any unnecessary delay and expense.



## EIA and projects requiring planning permission and an Environment Agency licence

### 3.1 General

- 3.1.1 If a relevant project requires planning permission and is subject to EIA, the **planning Regulations will apply and will determine whether EIA is to be undertaken**, even if an Agency licence is also required. The relevant planning authority will determine the need for EIA and an environmental statement. This will normally be in consultation with the Agency, although it is not a statutory requirement. This is designed to avoid duplication of environmental statements for competent authorities with different regulatory responsibilities under the directives. In such cases, the Agency will continue to deal with the licence application directly with the applicant, but all matters connected with EIA for the whole project proposal will be handled by the relevant planning authority and will be subject to the procedures applicable to the planning Regulations.
- 3.1.2 The Agency is a statutory consultation body in the EIA process. For all relevant projects, the planning authority is required to consult the Agency before giving its opinion to a developer on the information to be included in the environmental statement (referred to as a 'scoping opinion').
- 3.1.3 If, for any reason, scoping advice is not received from the relevant planning authority in relation to a project that requires planning permission, EIA and an Agency licence, applicants may contact the Agency direct for advice regarding aspects of the project that affect the water environment.
- 3.1.4 As a statutory consultee, the Agency must be consulted by the relevant planning authority before it determines whether to grant planning permission.



## EIA and projects requiring an Environment Agency licence

### 4.1 General

- 4.1.1 This section applies to water management projects for agriculture (including projects where water application is by spray irrigation) that require an abstraction licence from the Agency.
- 4.1.2 If the Agency determines that an EIA is required, the developer is responsible for preparing the environmental statement and must submit it with the licence application. The developer may choose to engage consultants for some or all of the work. The EIA should be a collaborative process involving discussions with the Agency, statutory consultation bodies and any other parties with a legitimate interest in the project.

### 4.2 Obtaining a screening opinion

- 4.2.1 The Regulations provide a procedure that enables a developer to apply to the Agency for a screening opinion on whether EIA is needed in a particular case (see flow chart 1). This can be done as soon as the developer can provide the following basic information about the proposal (as stipulated in Regulation 4(2)):
- a a plan sufficient to identify the place where the project is to be carried out;
  - b a brief description of the project and its possible effects on the environment; and
  - c any other information or representations which the applicant wishes the Agency to take into account.

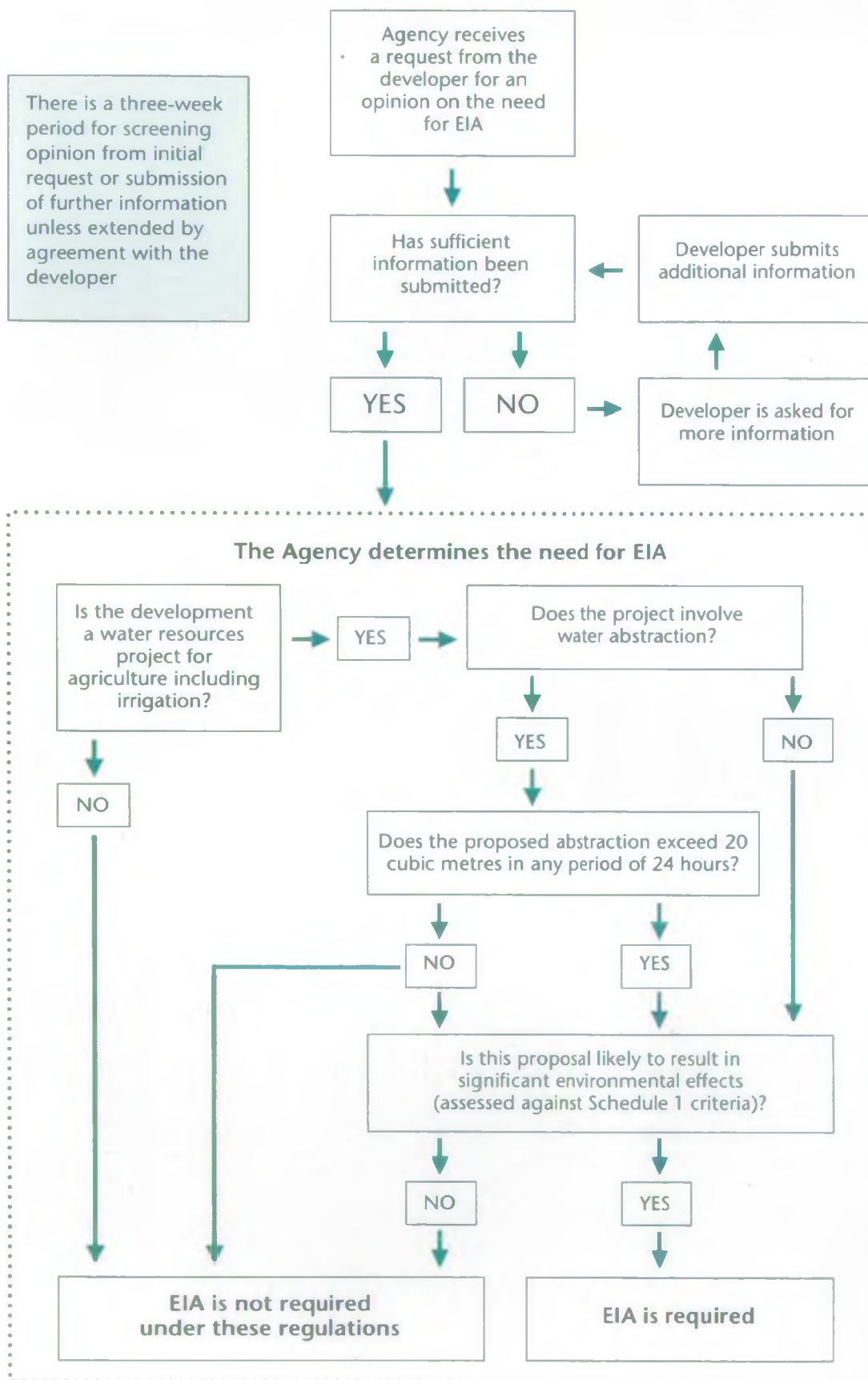
If desired, the developer can of course supplement the above with other information.

- 4.2.2 With such information the developer may approach the Agency at any time for an opinion on the need for EIA. The developer can do this well in advance of any formal

licence application, although any approach before the licence application stage is voluntary. Where such an approach is made, the Regulations stipulate that the Agency must give its opinion within three weeks of receiving the request, or longer if this is agreed in writing. If appropriate, a licence application not accompanied by either a screening determination or an environmental statement may be taken to be a request for a screening opinion.

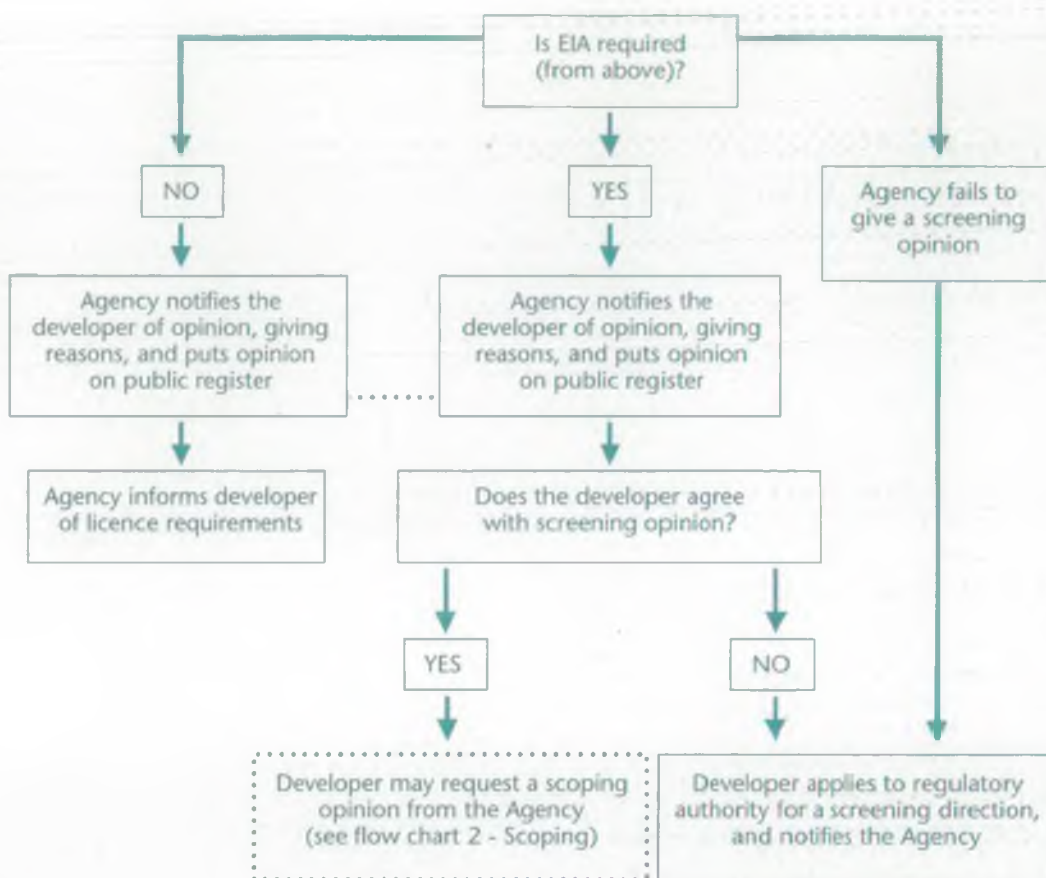
- 4.2.3 In determining whether the proposed abstraction or impounding would comprise or form part of a relevant project, the Agency will assess the significance of effects against those of the selection criteria set out in Schedule 1 of the Regulations that are relevant (see Appendix 1). The Agency will confirm its decision in writing; verbal statements made by or on behalf of the Agency will not constitute, qualify or compromise a decision. Where the Agency expresses an opinion as to whether a particular proposal requires EIA, it must provide a written statement giving clear and precise reasons for its opinion. Both that statement and the developer's application for an opinion will then be made available for public inspection at the same place as the Agency's register of licence applications.

- 4.2.4 If the Agency fails to determine a request for a screening opinion, or a developer is dissatisfied with the Agency's opinion that EIA is required, the developer may refer the matter to the appropriate regulatory authority for a direction (referred to in this document as a "screening direction"). Referral to the regulatory authority must be made within 28 days of the date the decision is due, or the date of determination by the Agency if received. The developer is simply required to copy the relevant papers and whatever representations the developer wishes to make in the light of the Agency's opinion, if any, to



Flow chart 1 | Screening





Flow chart 1 | Screening - continued

one of the following:

- for projects in England – Water Supply and Regulation Division, Department of the Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR;
- for projects in Wales – Environment Division, National Assembly for Wales, Cathays Park, Cardiff, Wales CF10 3NQ.

If the regulatory authority determines that EIA is required, it will provide a statement of reasons. The decision of the regulatory authority will be conclusive as to whether the proposed abstraction or impounding would comprise or form part of a relevant project, and therefore subject to EIA.

- 4.2.5 The broad intention of this procedure is to ensure that developers can obtain a clear ruling on the need for EIA well before they reach the stage of lodging a formal licence application. This should minimise the possibility of delay or uncertainty at that stage. If the matter is not raised until a formal licence application is lodged, the developer

risks serious delay and additional advertising costs if either the Agency or the regulatory authority subsequently rule that an environmental statement must be prepared. In such cases, no action will be taken on the application until the developer has prepared an environmental statement and submitted it to the Agency, or the requirement for an EIA has been overruled. In most cases this procedure will give developers a firm decision on the need for EIA as soon as they can provide basic information about their project.

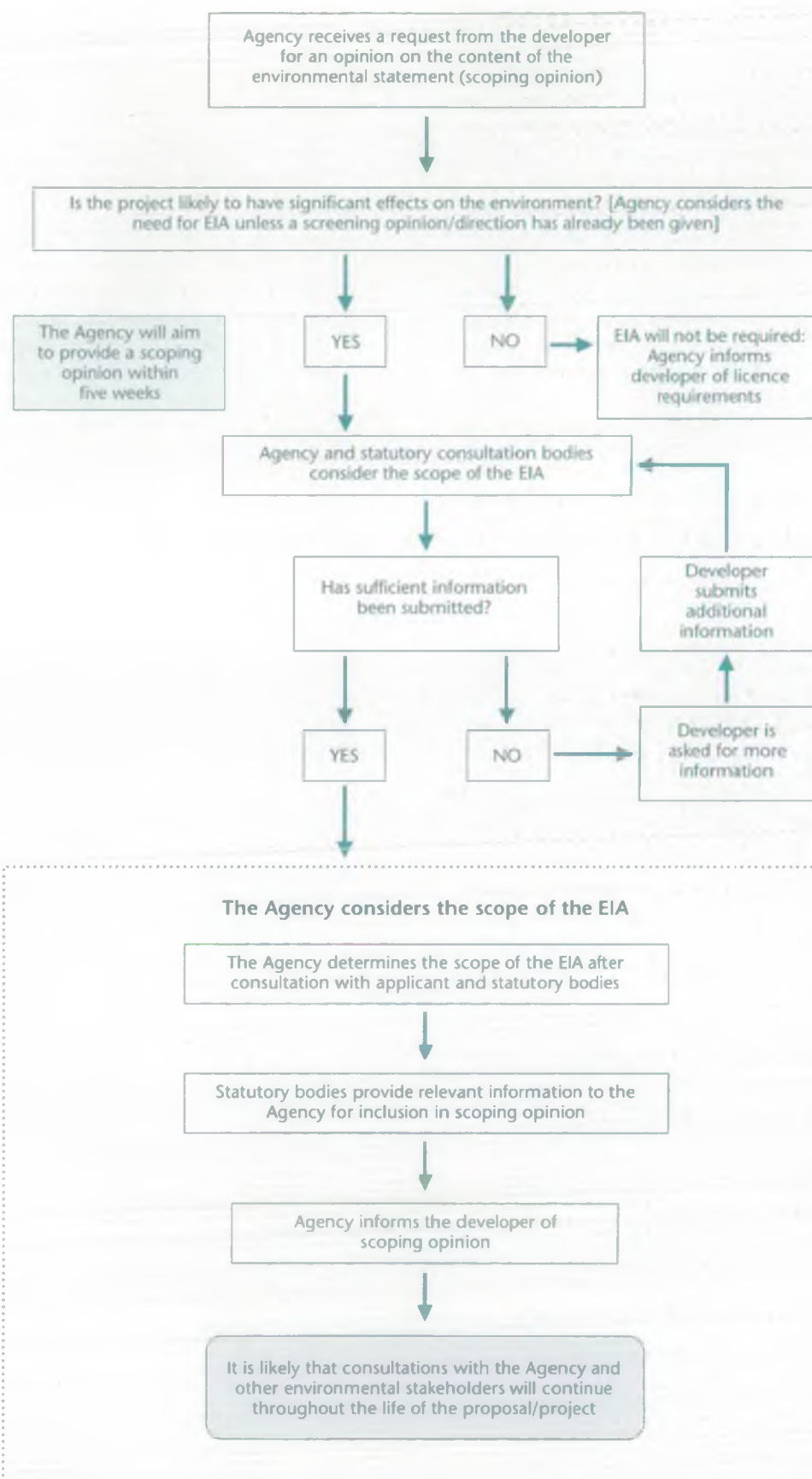
#### 4.3 Preliminary consultations

- 4.3.1 The process of EIA emphasises the need for full and early consultation by the developer with bodies that have an interest in the likely environmental effects of the development proposal. If important issues are not considered at a very early stage, they may well emerge when a project's design is well advanced and necessitate rethinking and delay. Ideally, EIA should start **before** the stage of site selection and, where relevant, process selection, so that the environmental merits of practicable alternatives can be properly considered.
- 4.3.2 While a developer is not formally obliged to consult on the proposal before submitting a formal application, there are good practical reasons for doing so, and the Agency strongly recommends it. Various public bodies will often possess useful local and specialised information relevant to a project's design, and officers may be able to give preliminary advice about local problems and aspects of the proposal likely to be of particular concern to them or the Agency.
- 4.3.3 The timing of such informal consultations is at the developer's discretion; but it will generally be better if they take place as soon as the developer can provide enough information about the proposal to form a basis for discussion. The developer can ask the Agency and any other consultation bodies to treat in confidence any information provided at this preliminary stage. If, however, the developer seeks a formal screening opinion from the Agency on the need for EIA (see section 3.2), the information about the project accompanying that request will be made available to the public by the Agency.

#### 4.4 Obtaining a scoping opinion

- 4.4.1 A developer should discuss the scope of an environmental statement with the Agency before it is prepared. The developer may ask the Agency to state in writing its opinion (a 'scoping opinion') about what information should be provided in the environmental statement. Upon receiving such a request, the Agency will consider whether it has enough information to give a scoping opinion and, if not, will specify what further information the developer needs to supply. The Agency aims to provide scoping advice within five weeks of receiving satisfactory preliminary information from the developer. The Agency will consult the developer and statutory consultation bodies before forming a scoping opinion. Flow chart 2 shows how this process operates.





Flow chart 2 | Scoping

#### 4.5 The scope and content of the environmental statement

4.5.1 The aim should be to provide as systematic and objective an account as possible of the significant environmental effects to which the project is likely to give rise. Where the statement embodies or summarises the conclusions of more detailed work, it should give enough information to enable those who wish to do so to verify the statement's conclusion and to identify the source of the information provided. The environmental statement must contain a non-technical summary that will enable non-experts to understand its findings.

4.5.2 There is no prescribed form of statement, but an environmental statement shall include the information set out in Schedule 2 to the Regulations (see Appendix 2) and at least the following:

- a description of the project comprising information on the site, design and size of the project;
- b a description of the aspects of the environment likely to be significantly affected by the project;
- c a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
- d an outline of the main alternatives studied by the applicant and an indication of the main reasons for his choice, taking into account the environmental effects; and
- e a non-technical summary of the information provided under sub-paragraphs a to d above.

As a practical guide to the range of issues that may need to be considered, the Agency has produced generic scoping guidance notes for most types of project. Appendix 4 contains a full list of the guidance notes. The appropriate scoping guidance notes for the project in question can be provided on request by the local Agency office handling the proposal. Developers may find it helpful to use these scoping guidance notes as a checklist and as a basis for their discussions with the Agency. The scoping of each development project must, however, be considered on a case-by-case basis. The guidance notes are not meant to be a

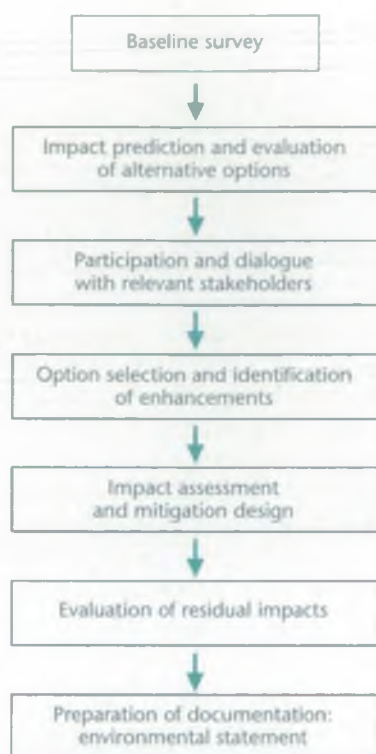
prescribed framework for all environmental statements. Their main purpose is to act as a guide or an agenda for the preliminary discussions about the scope of the statement. By working through the scoping guidance notes, the developer and the Agency should be able to agree which features of the project will need most attention in the statement.

4.5.3 The guidance notes should not be taken to imply that all environmental statements should cover every conceivable aspect of a project's potential environmental effects to the same level of detail. While an environmental statement should provide a full factual description of the project, the emphasis of Schedule 2 to the Regulations is on the "main" or "significant" effects to which a project is likely to give rise. In many cases, only a few of the aspects set out in the guidance notes will be significant in this sense and need to be discussed in the statement in depth. Other issues may be of little or no significance for the project in question, and will need only brief treatment to indicate that their possible relevance has been considered.

4.5.4 Although the Agency may express views about the information to be included in an environmental statement, the developer is responsible for its final content. Developers should, however, bear in mind that the Agency has the power to call for additional information when considering environmental statements, and that it is likely to use this power if it considers that aspects of a submitted statement are inadequate (see section 4.11). If the developer and the Agency disagree over the content of an environmental statement, there is no provision for it to be referred to the regulatory authority, except through the normal appeal procedures following an application for a licence or consent (see section 4.13).

4.5.5 The following flow chart highlights key aspects of the assessment process for EIA. While the process has been illustrated as a linear function, there is likely to be some iteration.





Flow chart 3 | Impact assessment and evaluation

#### 4.6 Other statutory and non-statutory consultees

4.6.1 Regulation 6(2) gives a particular role in the EIA process to public bodies with statutory environmental responsibilities. The "statutory consultation bodies" are as follows:

- the local planning authority (within the meaning of Part 1 of the Town and Country Planning Act 1990), within whose area the project is to be carried out;
- in relation to a project to be carried out in England, the Countryside Agency, English Nature and English Heritage;
- in relation to a project to be carried out in Wales, the Countryside Council for Wales and the National Assembly for Wales in its exercise of functions in the field of ancient monuments and historic buildings;

4.6.2 Where the Agency (or the regulatory authority) directs that EIA is required, the Agency and statutory consultation bodies shall, if notified by the developer, consult with the developer to determine whether they have any information relevant to the preparation of an environmental statement. The effect of this notification is to put those bodies under an obligation to provide the

developer with any information they have which is likely to be relevant to the preparation of the environmental statement. An example might be information held by English Nature (or in Wales, the Countryside Council for Wales) about the ecology of an area that could be relevant to the assessment of a project's likely effects. The release of such information remains subject to any statutory provisions governing disclosure.

4.6.3 It is up to the developer to approach the statutory consultation bodies and indicate what sort of information would be helpful in preparing the environmental statement. The obligation on statutory consultation bodies relates only to information already in their possession; they are not required to undertake research on behalf of the developer. At this stage, consultation bodies would not be expected to express a view about the merits of a proposal: their views are invited at a later stage (see paragraph 4.8.1). Consultation bodies may make a reasonable charge to cover the cost of providing information requested by a developer.

4.6.4 Developers should also consider whether to consult non-statutory bodies concerned with environmental issues and the general public during the preparation of the environmental statement. Some are national organisations, such as the Royal Society for the Protection of Birds. In most areas there are also active local amenity societies and environmental groups. These bodies may have particular knowledge and expertise to offer. While developers are under no obligation to publicise their proposals before submitting a formal application, consultation with local amenity groups and the public can be useful in identifying key environmental issues. This process may put the developer in a better position to modify the project in ways that would recognise local environmental concerns and mitigate adverse effects. The developer will also receive an early indication of the issues likely to be important at the formal application stage if, for instance, the proposal results in a public inquiry.

#### 4.7 Techniques of assessment

4.7.1 The assessment techniques used and the degree of detail in which a particular subject is treated in an environmental statement will depend on the character of the proposal, the

environment it is likely to affect, and the information available. While a careful study of the proposed location will generally be needed (including ecological and environmental survey information), original scientific research will not normally be necessary. In the case of a groundwater abstraction proposal, the developer may need to undertake a pumping test in accordance with the terms of a consent issued by the Agency under section 32 (3) and (4) of the Water Resources Act 1991 (or any replacement provision). This will normally be required to assess the resource impact of such a proposal. A developer may need to engage the services of experts in the field of hydrology or hydrogeology to help assess possible effects.

- 4.7.2 Environmental statements will often need to recognise explicitly that some uncertainty is attached to the prediction of environmental effects. Uncertainty is not, in itself, a reason for discounting the importance of particular potential environmental effects, simply because other effects can be more confidently predicted.

#### **Other sources of information and advice**

■ The Agency and the statutory consultation bodies may be able to advise the developer on sources of specialist information, for example about particular local conditions. Since April 2001 the Agency has been in the process of developing Catchment Abstraction Management Strategies (CAMS), which provide information on the resource position and specific resource issues in each catchment. Other Agency documents, such as regional and national water resources strategies, also give information about the likely constraints in a catchment. The Local Environment Action Plans (LEAPS) produced by the Agency can provide data in areas where CAMS are not yet available.

■ Extensive literature is available about how to assess the effects on the environment of particular processes and activities. Project developers may find the former Department of the Environment document entitled *Preparation of Environmental Statements for Planning Projects that require Environmental Assessment – A Good Practice Guide* particularly helpful. Appendix 5 gives full details of reference material.

## **4.8 Publicity and model press notices**

- 4.8.1 Where EIA is required, the applicant must publish a notice of the environmental statement in the London Gazette and at least once in each of two successive weeks in one or more newspapers circulating in the relevant locality of the abstraction or impounding works. The notice must state where details of the application, the environmental statement and any other information submitted with it may be inspected, and also that representations may be made to the Agency, in writing, during a period of 28 days from the date of the notice. The place for the deposit and inspection of documents must be in the relevant locality of the project site, and the application documents, including the environmental statement, must be available for inspection at all reasonable hours during the 28-day period specified in the notice.

- 4.8.2 The applicant should be prepared to make copies of the environmental statement available to members of the public. The number of copies made is up to the applicant, who can make a reasonable charge, reflecting printing and distribution costs, to those requesting copies. Any charges made must be stated in the press notice.

- 4.8.3 Model press notices are included in Appendix 3 of this document. They are designed to deal with the three main types of application.

- 4.8.4 For proposals requiring an environmental statement and a licence to abstract or impound water, the Agency strongly recommends combining the publicity by using notice N1/EIA. This will enable the developer to reduce the cost of advertising.

- 4.8.5 For proposals requiring an environmental statement but where the developer chooses to separate this from the application for an Agency licence, notice N2/EIA should be used. In exceptional cases, where an applicant has not consulted the Agency in advance about a proposal and has proceeded to publish notice of an application for a licence, and it has subsequently been determined that EIA is required, notice N2/EIA may be used to rectify the matter. Additional advertising costs will be incurred by dealing with this separately from the application for a licence. Alternatively, the applicant may, if they wish, withdraw their application and readvertise it using combined notice N1/EIA above. In either event,



additional costs and delay will be incurred because of the need to give proper notice of the environmental statement.

4.8.6 Other projects may involve more complex combinations of proposals to abstract and/or impound water, or to vary existing licences, with or without an environmental statement. In such cases, applicants should contact the relevant Agency office for advice regarding the form of press notice required.

4.8.7 The applicant is responsible for arranging to publish the necessary notice in the *London Gazette* and local newspaper(s). This must be done in accordance with the guidance contained in form WR1 Part D of the Agency's standard licence application pack. Applicants should bear in mind that the *London Gazette* and local newspapers may need up to seven days' advance notice of the date required for publication. Applicants must ensure that the 28-day period specified in the notice is planned accordingly. For details of current charge rates for the *London Gazette*, please contact its offices direct by telephone on 020 7873 8308, or write to the Stationery Office

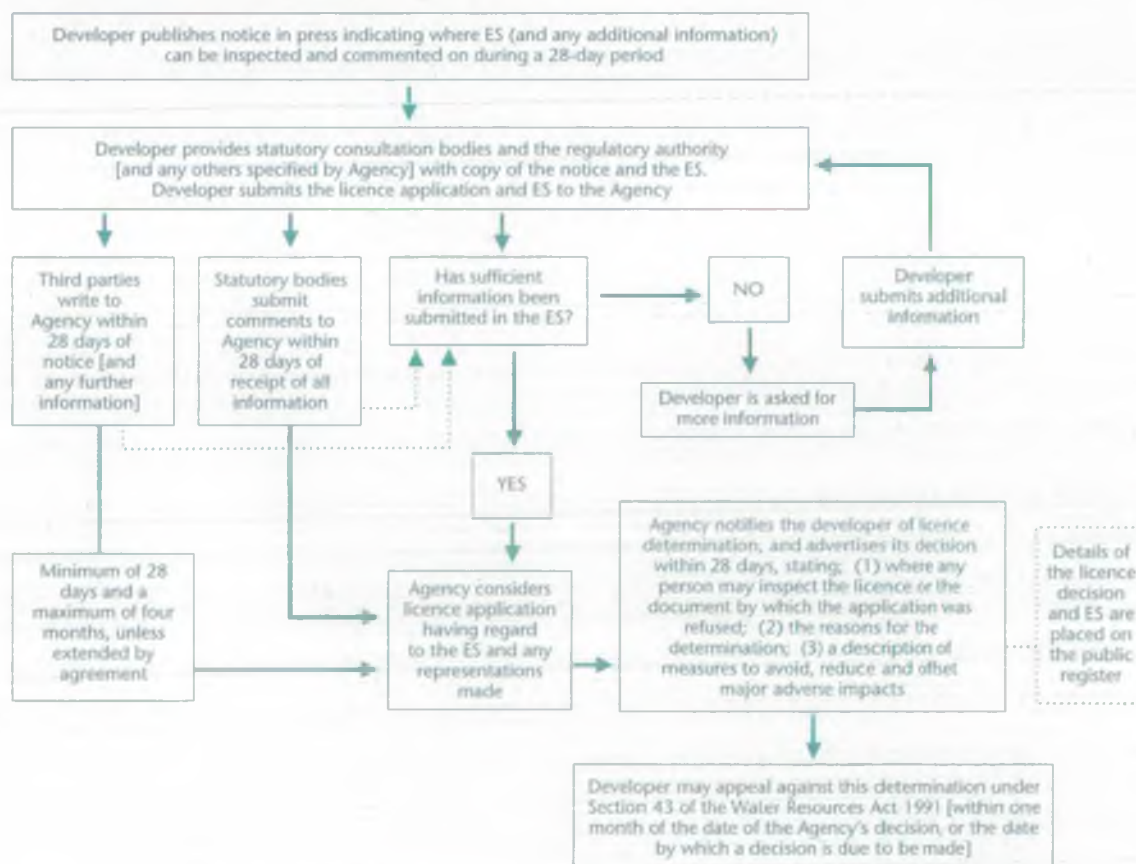
Limited, the *London Gazette* Office, PO Box 7923, London SW8 5WF. Notices published in the *London Gazette* can be viewed on its website at [www.london-gazette.co.uk](http://www.london-gazette.co.uk) on the date of publication and the following day. Care should be taken in publishing the statutory notices; errors may invalidate the application and will be costly to rectify.

#### 4.9 Submitting the environmental statement and licence application

4.9.1 The applicant must send a copy of the notice published in the *London Gazette*, the environmental statement and any further information submitted with it to:

- the statutory consultation bodies;
- the appropriate Minister (DEFRA/NAW);
- other persons specified by the Agency.

This should be sent with a letter stating that any representations on the application or the further information should be made in writing to the Agency within 28 days beginning from the date of the notice (see Flow chart 4).



Flow chart 4 Submission of licence application and determination of application (with an environmental statement)

4.9.2 Subject to the publication of the required notice and the consultation procedures referred to in paragraphs 4.8.1 and 4.9.1 above, the applicant must send to the Agency:

- an original of each edition of the local newspaper (excluding the London Gazette) in which the notice has been published (photocopies are not acceptable as proof of publication);
- a copy of any letter sent to a statutory consultation body or other person;
- two copies of the environmental statement and any further information submitted with it;
- the completed application;
- other documents or requirements specified in the licence application forms.

#### 4.10 Handling by the Agency

4.10.1 The Agency will write to the applicant or appointed agent to acknowledge receipt of a complete and valid application, and will place details of the application on its register of licence applications, along with the environmental statement. The Agency will advise the applicant of any possible delay that might lead to a request to extend the period allowed for determination before an appeal can be made.

4.10.2 The Agency will be unable to consider an application or grant a licence in respect of an application not accompanied by an environmental statement, where the Agency or the regulatory authority has determined that one is necessary.

4.10.3 In some cases, the Agency may notify the applicant in writing that the environmental statement provided with the application does not contain all the information required by the Regulations, and will indicate what further information is required. In such cases, the Agency is not obliged to consider the application until the information requested has been provided.

#### 4.11 Requests for further information

4.11.1 The Agency has the power to require further information where it considers that the information provided in the developer's environmental statement, and that available to the Agency from other sources, is insufficient to permit a proper evaluation of

the project's likely environmental effects. It may also ask for evidence to verify the information already provided. The use of these powers should not normally be necessary, especially if the parties have worked together during the preparation of the environmental statement. Nevertheless, further consultation between the Agency and the developer may be needed, in particular to consider comments made by consultation bodies and possible amendments to the proposal to meet any objections that have been raised.

#### 4.12 Determination of application

4.12.1 For applications subject to EIA, no appeal can be lodged before a period of four months has passed from the date of receipt of a complete and valid application. Wherever possible, the Agency will give its decision within this period. In complex cases, it may be necessary to agree a longer period in writing with the applicant.

4.12.2 In determining the application, the Agency is of course required to consider the environmental statement, any further information provided by the applicant and any representations received by the Agency, as well as other material considerations. As with any other application, the Agency may refuse to grant a licence or may grant it with such conditions that it considers necessary and reasonable. If the Agency fails to make a decision within the four-month period, or any agreed extension, the applicant will have a right of appeal to the regulatory authority.

4.12.3 The Agency or the regulatory authority, as the case may be, will publish a notice of its decision on the application within 28 days of making it. The decision notice will be published in the London Gazette and the same local newspaper(s) used for publishing the notice of the application and the environmental statement. The decision notice will state whether the application has been granted or refused and state a place where any person may inspect:

- the licence (or consent) or, as the case may be, the document by which the application was refused;
- written notice of the main reasons and considerations on which the determination is based;



- where necessary, a description of the main measures to avoid, reduce and, if possible, offset the major adverse effects.

#### **4.13 Appeals and call-ins**

- 4.13.1 Applicants have a right of appeal to the regulatory authority if they are dissatisfied with the Agency's decision (or if the Agency fails to make a decision within four months, or any agreed extended period). Notice of appeal must be lodged with the regulatory authority and a copy served on the Agency within 28 days of receipt of the Agency's decision letter, or, in the absence of a decision, the date by which a decision was due to have been made.
- 4.13.2 The regulatory authority has the power to call in any application for a licence. In such cases, the application will be determined by the regulatory authority in consequence of either a hearing or a public inquiry. The regulatory authority may direct the Agency to refuse the application, or to grant a licence with conditions that it considers appropriate. The decision of the regulatory authority on any appeal or called-in application is final.
- 4.13.3 Where an environmental statement has been prepared to accompany a licence application, the information in it will be among the material considerations that an inspector will take into account when considering an appeal. Like the Agency, the regulatory authority or its appointed inspectors have the power to request further information from the applicant if they consider it necessary. Any additional information provided in response to such a request will be made available to all parties to an appeal.
- 4.13.4 The addresses for further information concerning the appeal procedure and notice of appeal are as follows:
- in England – the Secretary of State for the Environment, Food and Rural Affairs, Water Resources Appeals, c/o the Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Telephone 0117 372 6372
  - in Wales – the Secretary of State for Wales, Water Resources Appeals, c/o the Planning Inspectorate, Cathays Park, Cardiff, Wales CF10 3NQ. Telephone 029 2082 3168.

#### **4.14 Other reference material**

Appendix 5 of this document contains possible sources of other useful information and reference material.

# EIA and projects not requiring an Environment Agency licence

## 5.1 General

- 5.1.1 Some projects are exempt from licensing controls but still fall within the scope of these Regulations, and require EIA. This section covers the "consenting procedure" that applies to relevant projects exempt from licensing.
- 5.1.2 The exempt status of abstractions can either relate to the source of supply (for example exempt areas, discrete waters), or to the abstraction itself where the exemption relates to the abstraction purpose (for example trickle irrigation).

## 5.2 What is a consent?

- 5.2.1 A consent under the Water Resources (EIA) Regulations 2003 is an authorisation for a relevant project to proceed. It takes account of any significant effects the project is likely to have on the environment (as identified by the environmental statement) but only in cases where the licence controls do not apply. The Agency could refuse to grant a consent based on its assessment of an environmental statement. This means that the project cannot proceed and no water can be abstracted or impounded without committing an offence under the Regulations.
- 5.2.2 Conditions can be attached to a consent as the Agency considers appropriate.

## 5.3 When is a consent required?

- 5.3.1 All relevant projects not otherwise requiring planning permission, and not requiring an Agency licence, need consent from the Agency to proceed. Any developer proposing to abstract or impound water as part of a development which could be regarded as a relevant project under the Regulations may apply to the Agency for a screening opinion as to whether an environmental statement is necessary. If the Agency determines that the project is not a relevant project, no further action is needed and the project can proceed. If the Agency decides that the project is a relevant project, consent must be applied for and an environmental statement produced and submitted with the

application for a consent. The project may only proceed when a consent has been granted.

- 5.3.2 Again, the fundamental test for determining whether a project is a relevant project is the likelihood of the development causing significant environmental effects. The criteria for assessing significant environmental effects are set out in Schedule 1 of the Regulations (reproduced in Appendix 1).

## 5.4 How to apply for a consent

- 5.4.1 The consent procedure closely reflects the procedure for projects requiring an Agency licence. This section highlights only elements where the procedures differ. For more detail on all elements of the procedure, see Part 3 of this document.
- 5.4.2 Any potential applicant who needs to know whether a project is subject to EIA, and hence requires a consent, may approach the Agency for a screening opinion. If it is determined that the project is subject to EIA, an application for a consent should be made in writing to the Agency, accompanied by an environmental statement.
- 5.4.3 The consultation process and requirement to advertise the application is the same as for projects requiring an Agency licence, as described in Part 3. However, a different model press notice has been provided to advertise a proposal where an environmental statement has to accompany an application for a consent. This notice (N3/EIA) can be found in Appendix 3.
- 5.4.4 If an applicant is dissatisfied with the Agency's decision regarding the determination of a consent or the conditions attached, they have the right of appeal against it under the same procedures as apply to projects requiring a licence. Likewise, if the Agency fails to notify an applicant for a consent of its decision within four months of the date of receipt of a complete and valid application, including the submission of an environmental statement, the applicant also has a right of appeal. See section 4.13 of this document for guidance.



## Appendix 1:

# Selection criteria for relevant projects

The criteria for the selection of relevant projects as detailed in the Water Resources (EIA) Regulations 2003 are as follows:

**Reproduced from Schedule 1 Regulation 4 (4)**

## Selection criteria for relevant projects

### 1 *Characteristics of projects*

The characteristics of projects must be considered having regard, in particular, to;

- (a) the size of the project;
- (b) the cumulation with other projects;
- (c) the use of natural resources;
- (d) the production of waste;
- (e) pollution and nuisances;
- (f) the risk of accidents, having regard in particular to substances or technologies used.

### 2 *Location of projects*

The environmental sensitivity of geographical areas likely to be affected by projects must be considered, having regard, in particular, to;

- (a) the existing land use;
- (b) the relative abundance, quality and regenerative capacity of natural resources in the area;
- (c) the absorption capacity of the natural environment, paying particular attention to the following areas;
  - (i) wetlands;
  - (ii) coastal zones;
  - (iii) mountain and forest areas;

- (iv) nature reserves and parks;
- (v) areas classified or protected under EEA States' legislation; special protection areas designated by EEA States pursuant to Council Directive 79/409/EEC on the conservation of wild birds<sup>(1)</sup> and Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora<sup>(2)</sup>;
- (vi) areas in which the environmental quality standards laid down in Community legislation have already been exceeded;
- (vii) densely populated areas;
- (viii) landscapes of historical, cultural or archaeological significance.

### 3 *Characteristics of the potential impact*

The potential significant effects of projects must be considered in relation to criteria set out under paragraphs 1 and 2, and having regard in particular to;

- (a) the extent of the impact (geographical area and size of the affected population);
- (b) the transfrontier nature of the impact;
- (c) the magnitude and complexity of the impact;
- (d) the probability of the impact;
- (e) the duration, frequency and reversibility of the impact.

(1) O.J. No L103, 25.4.1979, p.I. Directive as last amended by the 1994 Act of Accession.

(2) O.J. No L206, 22.7.1992, p.7.

## Appendix 2:

# Requirements of the regulations as to the content of environmental statements

An environmental statement comprises a document or series of documents provided for the purpose of assessing the likely impact upon the environment of the development proposed to be carried out.

The following are the statutory provisions with respect to the content of environmental statements, as set out in Schedule 2 to the Water Resources (Environment Impact Assessment) Regulations 2003.

- 1 A description\* of the project, including in particular:
  - a description of the physical characteristics of the whole project and the land-use requirements during the construction and operational phases;
  - a description of the main characteristics of the production processes, for instance nature and quantity of the materials used;
  - an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light heat, radiation, etc.) resulting from the operation of the proposed project.

(\*The Agency recommends the use of a location map of a scale of not less than 1:10,000, drawings, diagrams or photographs, etc., which may help to explain or describe the project.)
- 2 An outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects.
- 3 A description of the aspects of the environment likely to be significantly affected by the proposed project, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.
- 4 A description of the likely significant effects of the proposed project on the environment, resulting from:
  - the existence of the project;
  - the use of natural resources;
  - the emission of pollutants, the creation of nuisances and the elimination of waste,

and a description by the developer of the forecasting methods used to assess the effects on the environment.
- 5 A description of the measures envisaged to prevent, reduce and, where possible, offset any significant adverse effects on the environment.
- 6 A non-technical summary of the information provided under the above headings.
- 7 An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the developer in compiling the required information.



## Appendix 3:

### Model press notices

Model Notice N1/EIA – Notice of application for a licence to abstract water and a proposal requiring an environmental statement.

**Water Resources Act 1991/Environment Act 1995**

**Water Resources (Environmental Impact Assessment) Regulations 2003**

**Notice of application for a licence to abstract water and a proposal requiring an environmental statement**

Take notice that (a) .....  
 of (b) .....  
 .....  
 .....  
 .....

is applying to the Environment Agency for a licence to abstract water from

(c) .....  
 at/between National Grid Reference(s) (d) .....  
 at (e) .....

The proposal is to abstract water at the following rates:

(f) ..... cubic metres per hour. .... cubic metres per day  
 ..... cubic metres {per year} / {between (g) ..... and ..... each year}.

The water will be used for (h) .....

An environmental statement or further information has been supplied to the Environment Agency in respect of the proposed project which is subject to the Water Resources (Environmental Impact Assessment) Regulations 2003.

A copy of the application, environmental statement and any map, plans and other information or documents submitted with it may be inspected free of charge at all reasonable hours at

(i) .....  
 between (j) ..... and ..... 200 .....

A copy of the application, environmental statement or further information may be obtained from the applicant at (k) .....

A charge of £ (l) ..... will be made for the copy {(m) No charge will be made for the copy}.

Any person who wishes to make representations about the application should do so in writing to the Environment Agency at

(n) .....

before the end of the said period, quoting the name of the applicant.

Signed {block capitals} (o) .....

Name/on behalf of (p) .....

Date (q) .....

- (a) Insert name of applicant.
- (b) Insert address of applicant.
- (c) Insert name of inland water and/or description of underground strata.
- (d) Give NGR information as per the answer to question B3 on the application form.
- (e) Give local site description including the name of the locality/parish/district, etc.
- (f) Insert relevant quantities as per the answer to question B6 of the application form.
- (g) Insert period where relevant.
- (h) Insert a description of the purpose for which the water is to be used and corresponds with the answer to question B6 of the application form. Add any other details that will help explain your application to the public, for example "abstraction during winter months only".
- (i) Insert an address within the relevant locality of the proposed point of abstraction. See the glossary of terms for definition of "relevant locality" and the guidance note in the licence application pack.
- (j) Enter dates between which the documents specified will be available for inspection. The beginning date must not be earlier than the date the notice is first published in the local newspaper. The end date must be at least 28 days from the first date and at least 25 days from the date on which the notice is to be published in the London Gazette.
- (k) Enter the address to which requests for copies of the specified documents should be sent.
- (l) State the reasonable charge for copying, etc., or delete if statement (m) applies.
- (m) Delete if not appropriate.
- (n) Enter the address given in the regional information sheet provided with the application form, or the address nominated by the Environment Agency.
- (o) Print the name of the applicant.
- (p) Enter the name of any agent acting on behalf of the applicant.
- (q) Enter the date of the notice.



Model Notice N2/EIA – Notice of application requiring an environmental statement  
(not including an application for an Agency licence).

### Water Resources (Environmental Impact Assessment) Regulations 2003

#### Notice of application requiring an environmental statement

Take notice that (a) .....  
of (b) .....

.....  
.....  
has made an application and supplied an environmental statement to the Environment Agency for  
a proposed project which is subject to the Water Resources (Environmental Impact Assessment)  
Regulations 2003.

A copy of the application, environmental statement and any further information submitted with it  
may be inspected free of charge at all reasonable hours at

(c) .....

during a period of 28 days beginning with the date of this notice. A copy of the application,  
environmental statement or further information may be obtained from the applicant at

(d) .....

A charge of £ (e) ..... will be made for the copy {(f) ..... No charge will be made for the copy}.

Any person who wishes to make representations about the application should do so in writing to  
the Environment Agency at

(g) .....

before the end of the said period, quoting the name of the applicant.

Signed {block capitals} (h) .....

Name/on behalf of (i) .....

Date (j) .....

(a) Insert name of applicant.

(b) Insert address of applicant.

(c) Insert an address within the relevant locality of the proposed point of abstraction. See  
the glossary of terms for definition of "relevant locality".

(d) Enter the address to which requests for copies of the specified documents should be  
sent.

(e) State the reasonable charge for copying, etc., or delete if statement (f) applies.

(f) Delete if not appropriate.

(g) Enter the relevant address nominated by the Environment Agency.

(h) Print the name of the applicant.

(i) Enter the name of any agent acting on behalf of the applicant.

(j) Enter the date of the notice.

Model Notice N3/EIA – Notice of application for a consent requiring an environmental statement

**Water Resources (Environmental Impact Assessment) Regulations 2003**

**Notice of application for a consent for a project requiring an environmental statement**

Take notice that (a) .....

of (b) .....

.....

.....

has made an application for a consent and supplied an environmental statement to the Environment Agency for a proposed project which is subject to the Water Resources (Environmental Impact Assessment) Regulations 2003.

A copy of the environmental statement may be inspected free of charge at all reasonable hours at

(c) .....

during a period of 28 days beginning with the date of this notice. A copy of the environmental statement may be obtained from the applicant at

(d) .....

A charge of £ (e) ..... will be made for the copy {(f) ..... No charge will be made for the copy}.

Any person who wishes to make representations about the application should do so in writing to the Environment Agency at

(g) .....

before the end of the said period, quoting the name of the applicant.

Signed {block capitals} (h) .....

Name/on behalf of (i) .....

Date (j) .....

(a) Insert name of applicant.

(b) Insert address of applicant.

(c) Insert an address within the relevant locality of the proposed point of abstraction. See the glossary of terms for definition of "relevant locality".

(d) Enter the address to which requests for copies of the specified documents should be sent.

(e) State the reasonable charge for copying, etc., or delete if statement (f) applies.

(f) Delete if not appropriate.

(g) Enter the relevant address nominated by the Environment Agency.

(h) Print the name of the applicant.

(i) Enter the name of any agent acting on behalf of the applicant.

(j) Enter the date of the notice.



## Appendix 4:

# Scoping advice for projects requiring an environmental statement

The Agency considers comprehensive scoping a prerequisite for an effective EIA. To this end, the Agency has prepared generic guidance for scoping the environmental impacts of certain development projects. Of particular relevance to projects that fall under the Water Resources (Environmental Impact Assessment) Regulations 2003 are the following guidance notes:

- **J10 Surface water abstractions**
- **J11 Groundwater abstractions**

In addition to the above, separate scoping guidance notes on a wider range of projects are also available on request from the Agency. The complete list of available scoping guidance notes is set out below.

### List of development types and guidance notes available in this series

#### A Site operations

- 1 Construction work
- 2 Demolition and decommissioning works
- 3 Redevelopment and clean-up of contaminated land
- 4 Vegetation management and conservation enhancements

#### B Agriculture, forestry, aquaculture, pest control

- 1 Afforestation and deforestation
- 2 Arable farms and the intensification of previously uncultivated land
- 3 Control of pest species, including disease vectors
- 4 Deliberate introduction of non-native and genetically modified species
- 5 Freshwater and marine fish farms
- 6 Intensive horticulture, including greenhouses

#### C

#### Coastal and estuarine developments

- 1 Barrages (see also note I6, tidal power developments)
- 2 Coastal protection, including beach nourishment
- 3 Dredging and reclamation of land from the sea (see note D1 on Dredging for details)
- 4 Port, harbour, piers and jetty developments (including navigation works)
- 5 Sea outfalls
- 6 Shipyards

#### D

#### Extraction of natural resources and their primary processing

- 1 Dredging of riverine, estuarine and marine sediments, including commercial dredging and dredging for navigation
- 2 Offshore and onshore drilling operations (see notes D4 and D5)
- 3 Opencast mining and quarrying for coal, minerals, ores, etc.
- 4 Petrochemical industry (offshore) developments, including exploration
- 5 Petrochemical industry (onshore) developments, including exploration
- 6 Restoration of mineral extraction sites

#### E

#### Infrastructure developments (see also Section K, multi-modal transport)

- 1 Business parks (i.e. office buildings or repairs or servicing facilities)
- 2 Pipelines (oil and gas)
- 3 Residential developments

- 4 Retail and out-of-town shopping parks
- F Leisure and tourism**
- 1 Camping and caravan sites
  - 2 Golf courses
  - 3 Leisure centres and swimming pools, holiday complexes and hotels
  - 4 Marinas (see also notes C4 and J7)
  - 5 Off-road recreation activities
  - 6 Skiing and associated infrastructure
  - 7 Water-based recreation
  - 8 Angling and sport fishing, including fish stocking
- G Manufacturing industries**
- 1 Abattoirs
  - 2 Animal feed manufacture
  - 3 Chemical manufacture, processing and storage (see also Section L, waste management)
  - 4 Food and drink manufacture
  - 5 Industrial estates for light manufacturing
  - 6 Leather manufacture
  - 7 Mineral production and processing (e.g. coke ovens, glass, ceramics, cement, asbestos)
  - 8 Motor vehicle, aircraft and train manufacture
  - 9 Natural timber, and manmade wood products (e.g. medium-density fibreboard)
  - 10 Production and processing of metals
  - 11 Pulp, paper and board production
  - 12 Rubber manufacture
  - 13 Textile manufacture
- H Other sectors**
- 1 Cemeteries and crematoria
  - 2 Kennels, catteries and stables
  - 3 Military exercises, including the use of tanks and other vehicles
- I Power generation and transmission (See also note L1, incineration with energy recovery)**
- 1 Hydroelectric power developments, including dams and reservoirs
  - 2 Nuclear power stations and their decommissioning
  - 3 Overhead transmission lines
  - 4 Reprocessing of nuclear fuel
  - 5 Thermal power stations (non-nuclear)
  - 6 Tidal power developments (see also note C1, barrages)
  - 7 Windfarms, both on-shore and off-shore
- J River and water management**
- 1 River channel works and bank protection
  - 2 Discharges to surface waters
  - 3 Flood diversion channels
  - 4 Flood storage areas and flood embankments
  - 5 Fluvial dredging (see note D1, dredging, for details)
  - 6 Inter-basin transfer of water
  - 7 Navigation works and canal restoration
  - 8 Reservoirs and off-line ponds (see also note I1, hydroelectric power developments)
  - 9 Restoration and enhancement of river channels
  - 10 Surface water abstractions
  - 11 Groundwater abstractions
- K Multi-modal transport (See notes C4 and J7 for coverage of water transport issues)**
- 1 Airports and airfields
  - 2 Light transit systems and tramways
  - 3 Motorway service areas, petrol stations and vehicle maintenance facilities
  - 4 New roads, road widening and other road improvement schemes
  - 5 Railways and railway stations
  - 6 Underground transit systems
  - 7 Vehicle parks and park-and-ride schemes
- L Waste management**
- 1 Incineration, including animal carcasses and incineration with energy recovery
  - 2 Landfill sites
  - 3 Sewage treatment works (extension and



installation)

- 4 Solid waste treatment facilities
- 5 Spreading of waste on agricultural land, including sewage sludge
- 6 Waste transfer and recovery stations, civic amenity sites, scrapyards and recycling centres

The guidance notes are intended to be used as a tool to help identify impacts which may occur as a result of implementing a project. They are not intended to be prescriptive, but to provide a structured approach to scoping. As with all assessments the developer, in consultation with relevant specialists, will need to determine where the boundaries lie in setting limits to the nature and amount of information included in the assessment and which impacts should be assessed. A balance needs to be achieved between limiting costs and the consequences of excluding potentially significant impacts from the study at an early stage.

Further details and information on scoping can be found in documents 5 and 9 in the list of publications in Appendix 5.

## Appendix 5:

### Other reference material

Extensive reference material and information has been published about EIA and environmental statements. Most libraries will have relevant books or other publications on these subjects, although the majority of developers or applicants will probably not need them. The following are key reference documents governing the legal position and associated guidance.

- 1 Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment is printed in the *Official Journal of the European Communities*, page no L 175/40, dated 5 July 1985.
- 2 Council Directive 97/11/EC of 3 March 1997 (amending Council Directive 85/337/EEC) is printed in the *Official Journal of the European Communities*, page no. L 73/5, dated 14 March 1997.
- 3 The following UK Regulations implementing the EC directives have been made and are particularly relevant to the Agency's regulatory functions:
  - (i) The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 SI 1999 No 293.
  - (ii) The Environmental Impact Assessment (Land Drainage Improvement Works) Regulations 1999 SI 1999 No 1783.
  - (iii) The Water Resources (Environmental Impact Assessment) Regulations 2003 SI 2003 No 64.
- 4 Circular 02/99 – "Environmental Impact Assessment" dated 12 March 1999 produced by the Department of the Environment, Transport and the Regions and published by the Stationery Office ISBN 0-11-753493-5. A similar circular 11/99 issued in 1999 has been produced by the former Welsh Office and is published by the Stationery Office ISBN 0-7504-2335-8. These circulars are primarily concerned with projects requiring planning permission.
- 5 *Environmental Assessment – Scoping for Projects* 1996, produced by the Environment Agency and published by the Stationery Office ISBN 0-11-310111-2.
- 6 *Environmental Assessment – A Guide to the Procedures* 1989, produced by the Department of the Environment and published by the Stationery Office ISBN 0-11-752244-9.
- 7 *Environmental Assessment – Preparation of Environmental Statements for Planning Projects that Require Environmental Assessment – A Good Practice Guide* 1995, produced by the Department of the Environment and published by the Stationery Office ISBN 0-11-753207-X.
- 8 *Evaluation of Environmental Information for Planning Projects – A Good Practice Guide* 1994, produced by the Department of the Environment and published by the Stationery Office ISBN 0-11-753043-3.
- 9 *Handbook for Scoping Environmental Assessments* 2000, produced by the Environment Agency and published by the Stationery Office ISBN (in preparation).
- 10 *Environmental Impact Assessment – Guidance on Scoping* Dated May 1996. Available from Mrs M-C Beeckmans, European Commission, DG XI.B.2. Fax no. 00 322 2969561.





## Glossary of terms and abbreviations

The following terms or abbreviations have been used in this document solely to aid understanding of certain expressions or terminology used in connection with the Regulations and the licence controls under Part II of Chapter II of the Water Resources Act 1991. Where these terms have a statutory derivation, the relevant legal authority is provided. In some cases, you may need refer to the relevant legal authority for full details of the definitions. These terms do not amend any statutory interpretations or definitions that may apply.

### **Agriculture**

includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes – section 109(3) Agriculture Act 1947.

### **Catchment**

an area of land that drains, whether naturally or artificially, to any point in a stream or river.

### **Catchment Abstraction Management Strategy (CAMS)**

a document produced by the Agency that provides a shared strategy for the sustainable management of water resources within a catchment. It also describes the water resources and their availability, licensing policies for the allocation of the resources and future aspirations and strategies.

### **Competent authority**

includes any Minister (regulatory authority), government department, public or statutory undertaker, public body of any description or person holding public office duly designated as exercising responsibilities for performing the duties arising from the directives.

### **Consent**

the authorisation given by the Agency for a developer to proceed with a project proposed from a source of supply or for a purpose exempt from licence controls.

### **Developer**

the applicant for authorisation for a private project, or

the public authority that initiates a project.

### **Development**

a proposal to abstract or impound water that requires a licence or consent from the Environment Agency.

### **Development consent**

the decision of the competent authority or authorities that entitles the developer to proceed with a project. It can be either a licence to abstract or impound water, or a consent (q.v.).

### **Directives**

EC Directives 85/337/EEC and 97/11/EC.

### **Discrete waters**

inland waters so far as they comprise:

- (a) a lake, pond or reservoir that does not discharge to any other inland waters; or
- (b) one of a group of two or more lakes, ponds or reservoirs (whether close to or distant from each other) and of watercourses or mains connecting them, where none of the inland waters in the group discharges into any inland waters outside the group.

### **Environment Agency (Agency)**

the Environment Agency in England and, in Wales, the Environment Agency Wales.

### **Environmental assessment (EA)**

any approach or process that uses information to assess the environmental effects of a proposal. EA is not specifically defined in UK statute and does not necessarily fulfil the requirements of EC Directive 85/337/EEC as amended by Directive 97/11/EC. EA is used as an overarching term and includes all forms of strategic environmental assessment or appraisal, as well as project-level assessment or appraisal that may or may not fulfil the requirements of a "statutory" EIA.

### **Environmental Impact Assessment (EIA)**

the process whereby information about the environmental effects of a project is collected, assessed and taken into account in reaching a decision on whether the project should go ahead. The EIA process, as defined in UK statute (the Regulations), implements

the requirements of EC Directive 85/337/EEC as amended by Directive 97/11/EC.

**Environmental statement (ES)**

a document required by regulation 5 of the Regulations setting out the developer's own assessment of a project's likely environmental effects, which is prepared by the developer and submitted in conjunction with an application for an Agency licence.

**Land drainage**

includes the protection of land against erosion or encroachment by water, whether from inland waters or from the sea, and also includes warping and irrigation other than spray irrigation – section 29(5) Water Resources Act 1991.

**Licence**

a licence to abstract or impound water under Part II of Chapter II of the Water Resources Act 1991, or any replacement legislation.

**Local Environment Action Plan (LEAP)**

a plan produced by the Agency, after local consultation, for an area defined by natural catchment boundaries identifying issues requiring resolution, proposed actions for resolving them, and giving local planning guidance. These plans are produced on a five-year cycle with annual reviews.

**Material considerations**

various matters contained in the Water Resources Act 1991 and the Environment Act 1995 that the Agency must either consider, have regard to, or take into account in determining an application for a licence.

**Planning Regulations**

the Town and Country Planning (Environmental Impact Assessment) (England & Wales) Regulations 1999 SI 1999 No 293.

**The Regulations**

the Water Resources (Environmental Impact Assessment) Regulations 2003 SI 2003 No 164.

**Regulatory authority**

in relation to abstraction or impounding which is to be carried out in Wales, the National Assembly for Wales.

In any other case, the Secretary of State for the Environment, Food and Rural Affairs.

**Relevant locality**

the locality in which any proposed point of abstraction or impounding is situated – section 37(7) Water Resources Act 1991. This would normally be at a location such as a post office or library within 8km (5 miles) of the abstraction.

**Relevant planning authority**

in these guidelines, means the body to whom it falls

to determine an application for planning permission for the development in question.

**Relevant project**

a project that in the opinion of either the Agency or the regulatory authority should be made the subject of an EIA under the Regulations. A relevant project does not include a project serving national defence purposes.

**Scoping**

a crucial part of the EIA process, which helps to identify key issues of concern at an early stage, primarily through consultation with interested parties, and ensures that the issues are assessed at an appropriate level.

**Scoping opinion**

in these guidelines, means a voluntary mechanism whereby the developer may ask the Agency to state in writing what information it thinks should be provided in the environmental statement.

**Screening direction**

a direction made by the regulatory authority as to whether the development is a relevant project and subject to EIA.

**Screening opinion**

a written statement of the opinion of the Agency as to whether the development constitutes a relevant project and is subject to EIA.

**Sensitive area**

as defined by regulation 2 of Part 1 of the planning Regulations, means any of the following:

- (a) land notified under sub-section (1) of section 28 (areas of special scientific interest) of the Wildlife and Countryside Act 1981;
- (b) land to which sub-section (3) of section 29 (nature conservation orders) of the Wildlife and Countryside Act 1981 applies;
- (c) an area to which paragraph (u)(ii) in the table in article 10 of the Town and Country Planning (General Development Procedure) Order 1995 SI 1995 No.419 applies;
- (d) a national park within the meaning of the National Parks and Access to the Countryside Act 1949 (note: the same planning principles apply to the New Forest Heritage Area);
- (e) the Broads;
- (f) a property appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage;



- (g) a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979;
- (h) an area of outstanding natural beauty designated as such by an order made by the Countryside Commission, as respects England, or the Countryside Council for Wales, as respects Wales, under section 87 (designated areas of outstanding natural beauty) of the National Parks and Access to the Countryside Act 1949 as confirmed by the Secretary of State;
- (i) a European site within the meaning of regulation 10 of the Conservation (Natural Habitats etc.) Regulations 1994.

**Spray irrigation**

the irrigation of land or plants (including seeds) by means of water or other liquid emerging (in whatever form) from apparatus designed or adapted to eject liquid into the air in the form of jets or spray – section 72(1) Water Resources Act.

## CONTACTS:

### THE ENVIRONMENT AGENCY HEAD OFFICE

Rio House, Waterside Drive, Aztec West, Almondsbury, Bristol BS32 4UD.

Tel: 01454 624 400 Fax: 01454 624 409

[www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)

[www.environment-agency.wales.gov.uk](http://www.environment-agency.wales.gov.uk)

### ENVIRONMENT AGENCY REGIONAL OFFICES

#### ANGLIAN

Kingfisher House  
Goldhay Way  
Orton Goldhay  
Peterborough PE2 5ZR  
Tel: 01733 371 811  
Fax: 01733 231 840

#### MIDLANDS

Sapphire East  
550 Streetsbrook Road  
Solihull B91 1QT  
Tel: 0121 711 2324  
Fax: 0121 711 5824

#### NORTH EAST

Rivers House  
21 Park Square South  
Leeds LS1 2QG  
Tel: 0113 244 0191  
Fax: 0113 246 1889

#### NORTH WEST

PO Box 12  
Richard Fairclough House  
Knutsford Road  
Warrington WA4 1HG  
Tel: 01925 653 999  
Fax: 01925 415 961

#### SOUTHERN

Guildbourne House  
Chatsworth Road  
Worthing  
West Sussex BN11 1LD  
Tel: 01903 832 000  
Fax: 01903 821 832

#### SOUTH WEST

Manley House  
Kestrel Way  
Exeter EX2 7LQ  
Tel: 01392 444 000  
Fax: 01392 444 238

#### THAMES

Kings Meadow House  
Kings Meadow Road  
Reading RG1 8DQ  
Tel: 0118 953 5000  
Fax: 0118 950 0388

#### WALES

Cambria House/Ty Cambria  
29 Newport Road  
Cardiff CF24 0TP  
Tel: 029 2077 0088  
Fax: 029 2079 8555



ENVIRONMENT AGENCY  
GENERAL ENQUIRY LINE

**0845 9 333 111**

ENVIRONMENT AGENCY  
FLOOD LINE

**0845 988 1188**


ENVIRONMENT AGENCY  
EMERGENCY HOTLINE

**0800 80 70 60**



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