Environmental Impact Assessment (Agriculture) Regulations

Guide for Farmers

European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011
European Communities (Environmental Impact Assessment) (Agriculture) (Amendment) Regulations 2017
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Following a judgment of the European Court of Justice against Ireland (C-66/06), the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011 (referred to in this Guide as the EIA (Agriculture) Regulations) have been introduced to address elements of that judgment. This Guide has been prepared to explain those Regulations and the legal requirements that arise from them in relation to certain activities. The guidance needs to be followed carefully; it does not, however, claim to be a legal interpretation of the Regulations, which are available at the Department’s website (see following website link). Nor does it deal with the requirements of other legislation or schemes applicable to these activities (e.g. landscape features requirements which form part of cross-compliance for the purposes of the Single Payments Scheme or REPS requirements) and you must ensure, where such requirements arise, that you comply with them too.


<table>
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<th>Glossary of Terms</th>
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<tr>
<td>AA: Appropriate Assessment</td>
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<td>DAFM: Department of Agriculture, Food and the Marine</td>
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<td>DAHG: Department of Arts Heritage and the Gaeltacht</td>
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<td>EIA: Environmental Impact Assessment</td>
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<td>EIS: Environmental Impact Statement</td>
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<td>REPS: Rural Environment Protection Scheme</td>
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1. Summary
The EIA (Agriculture) Regulations came into force on 8 September 2011 & 19 September 2017. The Regulations apply to three different types of activities;
- Restructuring of rural land holdings
- Commencing to use uncultivated land or semi-natural areas for intensive agriculture
- Land drainage works on lands used for agriculture.

The Regulations do not, however, apply to reclamation, infill or drainage of wetlands, which activities are subject to planning permission under the Planning and Development (Amendment) (No. 2) Regulations 2011 and the European Communities (Amendment to Planning and Development) Regulations 2011.

Where you intend to undertake any of these activities and the proposed works exceed the size threshold for screening set out in the Regulations (see following table) you must make an application to the Department of Agriculture, Food and the Marine (DAFM) for screening giving details of the works.

If the proposed activity does not exceed the size thresholds but is an activity identified as ‘requiring consent’ or is a ‘notifiable action’ in a European site (e.g. SAC or SPA), or an NHA screening by DAFM may also be necessary. In such circumstances the National Parks and Wildlife Service may in certain cases direct you to apply to DAFM for screening in the case of sub-threshold works that have been brought to their attention (via notifiable actions system or otherwise). This will similarly apply where the activity may impact on a recorded monument and in such cases, the National Monument Service may direct you to apply for screening to DAFM.

If you propose to undertake any of these activities within (or the activity may effect) a proposed NHA or nature reserve, you must apply to DAFM for screening regardless of the size of the area involved.

Likewise where the proposed activities do not exceed the size thresholds but the works may have a significant effect on the environment, you must also make an application to DAFM. Examples of what constitutes significant effect on the environment are given in section 6.3.

It should be noted that proposed works in all areas (environmentally sensitive or not) that exceed the screening thresholds set out in the following table will require screening by DAFM.

<table>
<thead>
<tr>
<th>Type of on-farm Activity:</th>
<th>Screening Required:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restructuring of rural land holdings:</td>
<td>Length of field boundary to be removed: Above 500 metres</td>
</tr>
<tr>
<td></td>
<td>Re-contouring (within farm-holding): Above 2 hectares</td>
</tr>
<tr>
<td></td>
<td>Area of lands to be restructured by removal of field boundaries: Above 5 hectares</td>
</tr>
<tr>
<td>Commencing to use uncultivated land or semi-natural areas for intensive agriculture:</td>
<td>Above 5 hectares</td>
</tr>
<tr>
<td>Land drainage works on lands used for agriculture:</td>
<td>Above 15 hectares</td>
</tr>
</tbody>
</table>

DAFM will, following receipt of your application, conduct screening of the project and will let you know whether you can proceed with the intended work or whether you need to apply for consent (which application must be accompanied by an Environmental Impact Statement and/or Natura Impact Statement).
2. Activities covered in the EIA (Agriculture) Regulations

The Regulations apply to three different categories of activities:

- Restructuring of rural land holdings
- Commencing to use uncultivated land or semi-natural areas for intensive agriculture
- Land drainage works on lands used for agriculture (other than wetlands)

The drainage or reclamation of wetlands is controlled under the Planning and Development (Amendment) (No. 2) Regulations 2011 and the European Communities (Amendment to Planning and Development) Regulations 2011 and is regulated by Local Authorities (see section 12).

3. Restructuring of rural land holdings

As the title suggests, restructuring of rural land-holdings involves changing the layout of the farm. This activity may have a significant impact on habitats, wildlife and the landscape.

![Figure 2 – Dense network of hedgerows in a grassland landscape](image)

**Restructuring covers the following:**

(a) restructuring by removal of field boundaries covers the removal of lengths of field boundaries such as hedgerows, hedgerows on clay banks, stone walls, boundaries consisting of clay banks and stone-lined clay banks.

Maintenance work on existing structures, such as repairing stone walls, maintenance of hedgerows (e.g. maintenance of hedgerows as required by Good Agricultural and Environmental Condition in the context of cross compliance for the purposes of the Single Payment Scheme) is not covered by the Regulations. Removal of post and wire fencing (barbed wire or electrified wire) is also exempt from the requirements of the Regulations.
(b) restructuring by re-contouring (within farm-holding) covers the re-contouring of land, for example by levelling off hills or by infilling of hollows (by removing or shifting earth or rocks). For the purposes of the Regulations the area will be regarded as the area impacted by the works, rather than the total area of the field in which works are to take place. The quantity of material being shifted may be great or relatively small. Normal tillage operations are excluded from the requirements of the Regulations.

The legislation applies only to removal or shifting of material within the holding and does not apply to acceptance of material from outside the holding which activities are governed by the Waste Management (Facility Permit and Registration) Regulations 2007 and 2008, which are implemented by local authorities. The legislation does not apply to extraction of sand/gravel/clay for sale or supply outside the holding, which is governed by Planning legislation.

If you intend to undertake works that (a) exceed the thresholds set out in the Regulations (see following table) or (b) the works are to be carried out within (or may effect) a proposed NHA or a nature reserve or (C) the works may have a significant effect on the environment, you will need to apply to DAFM for screening.

<table>
<thead>
<tr>
<th>Type of on-farm Activity</th>
<th>Screening by DAFM required</th>
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</thead>
</table>
| Restructuring by removal of field boundaries: | • Over 5 hectares affected or over 500 metres field boundary being removed, whichever is the lesser  
• Sub-thresholds;  
  - where the proposed works are to be carried out within (or may effect) a proposed NHA or a nature reserve or  
  - the proposed works may have a significant effect on the environment |
| Re-contouring (within farm-holding) :     | • Over 2 hectares affected  
• Sub-threshold;  
  - where the proposed works are to be carried out within (or may effect) a proposed NHA or a nature reserve or  
  - the proposed works may have a significant effect on the environment |

As an example, if it is proposed to remove a hedgerow that separates two fields whose resultant total gross area (including the hedgerows) exceeds 5 hectares, then screening by DAFM is required before work can commence. Alternatively if the length of field boundary to be removed exceeds 500 metres, screening by DAFM is also required.

With regard to sub-threshold works that may have a significant effect on the environment, matters to consider include the rarity of the landscape feature that may be lost as a result of the proposed works, quality of the field boundary being removed (e.g. species diversity of hedgerow being removed), impact on archaeological monument etc. (see also section 6.3).

You should always apply for screening where the removal of hedgerows that are important commuting routes or feeding habitats for bat species is contemplated. Likewise you should always apply for screening where you propose to re-contour land that may be the habitat of protected species or flora.
It should be noted that re-contouring involving the infilling of a wetland is regulated under the Planning and Development (Amendment) (No.2) Regulations 2011 and the European Communities (Amendment to Planning and Development) Regulations 2011 and is subject to planning permission by Local Authorities (see sections 5.2, 5.3 and 12).

4. Commencing to use uncultivated land or semi-natural areas for intensive agriculture

Uncultivated or semi-natural areas encompass some very vulnerable wildlife habitats, some of which are already protected by legislation (e.g. SAC, NHA) or under the Environmental Liability Regulations. There are two categories to consider: uncultivated land and semi-natural areas.

(a) Uncultivated land

The term ‘uncultivated land’ is considered to include all areas that are not agriculturally managed or subject to limited management at the time of assessment. For the purposes of the Regulations, land is considered to be uncultivated land if it has not been subject to mechanical or chemical cultivation (for example by ploughing or rotavating or by the addition of organic or chemical fertilisers) for at least 15 years. Such land in many instances may have partially reverted to scrub. Uncultivated land relates to level of farming activity rather than the plants and habitats that are to be seen, as applies in the case of semi-natural areas.

(b) Semi-natural areas

These are areas that are not covered by hard or artificial surfaces, improved grasslands (e.g. perennial ryegrass dominated or clover-rich swards), tillage or other crops or gardens. Semi natural areas are defined largely by the plants and wildlife they support. The types of land considered to be semi-natural are for example:

- Species-rich grassland, upland
- Species-rich grassland, lowland
- Limestone pavement
- Heath or heather
- Bracken
- Coastal sand dunes

See Annex 1 for a more complete description of these areas. Note also the following website address for more information on habitat types:

Proposed works on (a) uncultivated land and (b) in semi-natural areas

The Regulations apply to works conducted in uncultivated or semi-natural areas that would enhance or intensify the agricultural productivity of such areas.

Proposed works likely to fall into this activity category might include:

- mechanically cultivating soil (for example, by ploughing, tine harrowing, or rotavating);
- addition of organic or chemical fertilisers to lands where none was applied previously;
- significantly increasing levels of organic or chemical fertiliser used (from a previously low level of use);
- sowing seed (e.g. grass, clover, other crop);
- clearing existing vegetation either mechanically or using herbicides.

It would not include practices which do not directly affect the soil. Mowing grass or cutting rhododendron or invading briars would not be considered as enhancement for the purposes of the Regulations.

If you intend to (a) significantly increase the agricultural productivity of more than 5 hectares of uncultivated land or semi-natural area or (b) the works are to be carried out within (or may effect) a proposed NHA or a nature reserve or (c) the works may have a significant effect on the environment, you will need to apply to DAFM for screening.

<table>
<thead>
<tr>
<th>Type of on-farm Activity</th>
<th>Screening by DAFM required</th>
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</table>
| Commencing to use uncultivated land or semi-natural areas for intensive agriculture | • Above 5 hectares  
• Sub-threshold;  
  where the proposed works are to be carried out within (or may effect) a proposed NHA or a nature reserve or  
  - the proposed works may have a significant effect on the environment |

With regard to sub-threshold works that may have a significant effect on the environment, matters to consider include the relative abundance of the habitat in the area (which may be lost as a result of the proposed works).

Regardless of applicable thresholds, you should always apply for screening where you suspect that the proposed works may impact on rare semi-natural grasslands such as orchid rich semi-natural grasslands or on limestone pavement (both of which are priority habitats under the Habitats Directive) or the works may impact on other rare or protected flora and fauna or habitats (see also section 6.3).
5. (a) Land drainage works on lands used for agriculture and (b) drainage or reclamation of wetlands.

5.1 Land drainage works on lands used for agriculture

Land drainage works on lands (other than wetlands) used for agriculture is covered by the EIA (Agriculture) Regulations and is controlled by DAFM. Such drainage works include the following:

- Installing open drains
- Installing field drains (not open) such as field drains using plastic pipe with drainage stone or field drains with drainage stone only or mole drains (no pipe or drainage stone) or gravel filled mole drains (no pipe but filled with gravel)
- Opening of a short distance of watercourse

Installing a field drain is covered by the Regulations; such work is not regarded as maintenance work for the purposes of the legislation (regardless of whether the field had field drains installed in the past or not).

Subsoiling of improved lands is not covered by the Regulations. Cleaning of open drains and adjacent levelling of spoil from such cleaning operations is also exempt (not covered by the Regulations).

**If you intend to undertake land drainage works that (a) exceed 15 hectares, (b) the works are to be carried out within (or may effect) a proposed NHA or a nature reserve or (c) the proposed works may have a significant effect on the environment, screening by DAFM is required.**

For the purposes of the Regulations, the area of works (drains plus immediate vicinity) rather than the area of the field will be the area considered. The 15 hectares threshold can be made up of all new drainage works or new works in combination with upgrading of previous works (since 8th Sept 2011).

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<thead>
<tr>
<th>Type of on-farm Activity</th>
<th>Screening by DAFM required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land drainage works on lands used for agriculture</td>
<td>• Above 15 hectares&lt;br&gt;• Sub-threshold;&lt;br&gt;- where the proposed works are to be carried out within (or may effect) a proposed NHA or a nature reserve or the proposed works may have a significant effect on the environment</td>
</tr>
</tbody>
</table>

With regard to sub-threshold works that may have a significant effect on the environment, matters to consider include proximity of proposed works to, and possible impact of proposed works on wetland areas, impact on breeding wading birds etc, (see also section 6.3).

5.2 Drainage or reclamation of wetlands

Drainage (open drain, pipe drainage or other method) or reclamation (by infilling or other method) of wetlands can have a major impact on habitats and wildlife. Such drainage works are not subject to the EIA (Agriculture) Regulations but are subject to alternative controls (see section 12 for a description of the controls in place under the Planning and Development (Amendment) (No. 2) Regulations 2011) and the European Communities (Amendment to Planning and Development) Regulations 2011.
5.3 What are wetlands?

For the purposes of the legislation the following are regarded as wetlands;

- Lakes, reservoirs and ponds
- Turloughs
- Rivers and canals
- Swamps and marshes
- Floodplains that are permanently inundated with water or inundated for a period each year (including callows). Floodplains will be taken to mean the area of land along a river which would be expected to flood for a period at some time in the course of a normal year.
- Peatlands (bogs, wet heath and fens)
- Wet woodlands
- Caves
- Cliffs
- Salt marshes
- Dune slacks and machairs
- Transitional waters (e.g. estuaries and lagoons)
- Intertidal habitats (to 6 m below the lowest spring tide level)

For further information on issues and considerations relating to wetlands see the Ramsar Convention on Wetlands website;

[www.ramsar.org](http://www.ramsar.org)
6. When is screening required?
Where you intend to undertake any of the activities outlined in sections 3, 4 and 5.1 and the proposed works exceed the relevant screening thresholds, screening by DAFM is required. If the proposed activity is to be undertaken within (or may effect) a proposed NHA or nature reserve, regardless of the size of the area involved, screening by DAFM will be necessary. In addition, screening will also be required, regardless of applicable thresholds, where the proposed works may have a significant effect on the environment (see section 6.3).

If you have doubts that any works that you propose to undertake may be subject to the requirements of the Regulations, you should apply to DAFM for screening. Consult your adviser, NPWS or DAFM (053-91 63 444) for further information.

6.1 Activities and environmentally sensitive areas
If you propose to undertake any of the activities (detailed in sections 3, 4 and 5.1) within (or the activity may effect) a proposed NHA or nature reserve, you must apply to DAFM for screening, regardless of the size of the area involved.

In other environmentally sensitive areas (NHAs, SACs and SPAs), certain activities or operations that might be damaging can only be carried out with the permission of the Minister for Arts, Heritage and the Gaeltacht. These are called notifiable actions or activities requiring consent and vary depending on the type of habitat that is present on the site. Landowners are sent copies of the notifiable actions that are relevant to their lands. The activities listed in the notifiable actions are not prohibited but require the landowner/occupier to consult in advance. In the case of NHAs, three months written prior notice is required to be given to the Minister before undertaking any notifiable activities.
Many of the activities covered by the EIA Regulations are notifiable actions if they are going to be carried out in an SAC, SPA or NHA and may only be carried out with the permission of the Minister for Arts, Heritage and the Gaeltacht. It is therefore necessary that you consult with the local National Parks and Wildlife Service Conservation Ranger before undertaking works identified as notifiable actions.

The National Parks and Wildlife Service may in certain cases direct you to apply to DAFM for screening in the case of sub-threshold works that have been brought to their attention (via notifiable actions system or otherwise) in SACs, SPAs or NHAs if they conclude that appropriate assessment (AA) or environmental impact assessment (EIA) may be required.

It should be noted that proposed works in all areas (environmentally sensitive or not) that exceed the screening thresholds will require screening by DAFM.

**The following website addresses can be used to check the location of environmentally sensitive areas:**

- **Proposed NHAs:**
  If you propose to undertake any of the activities (outlined in sections 3, 4 and 5.1) within (or the activity may effect) a proposed NHA, you must apply to DAFM for screening.

  There are approximately 630 proposed NHAs (pNHAs), which were published on a non-statutory basis in 1995, but have not since been statutorily proposed or designated. These sites are of significance for wildlife and habitats. Some of the pNHAs are small, such as a roosting place for rare bats, others are quite large.

  The following website should be used to check the location of pNHAs:

- **Nature reserves:** [http://www.npws.ie/naturereserves/](http://www.npws.ie/naturereserves/)

- **Special Areas of Conservation (SACs), Special Protection Areas (SPAs), Natural Heritage Areas (NHAs):** [http://www.npws.ie/protectedsites/](http://www.npws.ie/protectedsites/)

**6.2 Activities in the vicinity of monuments**

All archaeological monuments are protected under the National Monuments Acts 1930 – 2004. The National Monuments Service (Department of Arts, Heritage and the Gaeltacht) keeps a record of all known monuments and sites known as the Record of Monuments and Places (RMP). The RMP is the statutory list of all known archaeological monuments and consists of a published county-by-county set of Ordnance Survey maps, on which monuments are marked by a circle, and an accompanying book specifying the
type of monument. The RMP is available in planning authority offices and in public libraries
countrywide as well as in county and city/town museums. A complete set is also available for viewing
in the National Monuments Service Archive Unit, Department of Arts, Heritage and the Gaeltacht,
Irish Life Centre, Dublin 1. Data on all known monuments is also available on the Department’s
website at:
www.archaeology.ie.
http://webgis.archaeology.ie/NationalMonuments/FlexViewer/ - (requires Flash plug-in on your computer)

If you propose to carry out any of the activities covered by the Regulations (outlined in sections 3, 4
and 5.1) in the vicinity (within 20 metres) of a recorded monument, you must give notice in writing
to the National Monuments Service two months before commencing such works. This allows
adequate time for the National Monuments Section to advise on how the work may proceed without
damaging the monument.

The National Monuments Service may in certain cases direct you to apply to DAFM for screening
under the European Communities (Environmental Impact Assessment) (Agriculture) Regulations
2011.

6.3 Significant effect on the environment
Screening may also be required, regardless of the matters set out in sections 6, 6.1 and 6.2, where
the proposed works may have a significant effect on the environment. Where the proposed
development work is below the threshold for screening, it is a matter for the person who
proposes to carry out the works to make an assessment as to whether the works may have a
significant effect on the environment (professional advice may be required).

In assessing whether the development is likely to have a significant effect on the environment, the
person concerned must consider matters such as the relative abundance of the habitat in the area
(which may be lost as a result of the proposed works), the environmental sensitivity of the areas
likely to be affected by the project (see other factors that should be considered in Annex 2).

Regardless of the foregoing, you should always apply to DAFM for screening (Local Authority
in the case of wetlands) where you suspect that the proposed works may impact adversely, either
directly or indirectly, on rare semi-natural grasslands such as orchid rich grasslands, dune
systems, raised and blanket bogs, oligotrophic lakes, fens and mires or on species such as the
Atlantic salmon and freshwater pearl mussel.

You should apply for screening for any activities that result in the exposure and/or works are
likely to give rise to losses of soil to drains, streams and rivers thereby impacting on SAC
protected populations of freshwater pearl mussel.
6.4 Thresholds

In regard to the screening thresholds outlined in sections 3, 4 and 5.1 (and the matters outlined in sections 6.1, 6.2 and 6.3), the thresholds will for the purposes of monitoring generally be the areas (or lengths) of works undertaken in any one year, or the sum of such areas (or lengths) over a five year period, beginning on the 8th September 2011, or up to the time of a first application for screening or consent.

However DAFM reserves the right to monitor cumulation over periods greater than 5 years and farmers are advised to keep an ongoing cumulative record of their activities and to seek advice from DAFM as appropriate.

Accordingly, sub-threshold works carried out over a number of years, or in different areas of your farm, will, if taken together, where they exceed the threshold, require an application to DAFM for screening before such works are carried out.

Likewise the thresholds for mandatory EIA outlined in section 8 are cumulative and will, for the purposes of monitoring, generally be the areas (or lengths) of works undertaken in any one-year or the sum of such areas (or lengths) over a five year period, beginning on the 8th September 2011 or up to the time of a first application for screening or consent.

Screening by DAFM is required where the proposed works exceed the prescribed thresholds. Where a person proposes to undertake a number of activities, it is the threshold that first applies that determines when screening is necessary.

The thresholds are applicable to the person who is undertaking an activity covered by the Regulations and for the purposes of controls, will, in the absence of information to the contrary, be taken to be the person that makes an application under the Single Payment Scheme.
7. The application process

If you propose to carry out works, which meets any of the criteria for screening set out in the foregoing sections you must make an application to DAFM for screening and you may not proceed without permission from DAFM.

7.1 Screening application

You must firstly make a screening application giving details of the work you propose to carry out. Application forms can be requested from the following address:

EIA Section
Nitrate, Biodiversity and Engineering Division
Department of Agriculture, Food and the Marine
Johnstown Castle Estate
Wexford

Tel: (053) 9163444

(See application form in Annex 3)

DAFM may ask for more information concerning your application. DAFM will assess your application and inform you of our screening decision (generally, where outside of or not impacting on environmentally sensitive areas, within 6 weeks of the date of receipt of the application).

The decision will be either:

- that the project may proceed
- that the project exceeds the threshold for mandatory environmental impact assessment (EIA) and it may not proceed without DAFM consent or
- that the project is likely to have significant effects on the environment¹ and it may not proceed without DAFM consent.

If, following screening or Appropriate Assessment or Environmental Impact Assessment, it is determined that your proposal will not (a) adversely affect the integrity of a European site or (b) have any other significant effect on the environment, as far as the European Communities Environmental Impact Assessment) (Agriculture) Regulations 2011 or 2017 are concerned, you will be free to proceed. It is your responsibility however to ensure that the proposed works are in compliance with other legislation, including species protection provisions of the Wildlife Acts and of the Birds and Habitats Regulations 2011, the Planning and Development Acts 2000 to 2011, and the National Monuments Acts.

A screening decision will be valid for a period of 3 years and will relate to activities undertaken by the applicant or applicant’s spouse, son, daughter, where ownership of the lands in question are transferred within the 3 year period.

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¹ Including significant, potentially significant, or uncertain effects on an SAC or SPA
8. Application for consent

If your proposed works exceed the threshold for mandatory environmental impact assessment (see table below) or DAFM, following screening, considers that the works are likely to have a significant effect on the environment, work may not proceed without DAFM consent.

If consent is needed, you must make a further application to DAFM, which must be accompanied by an Environmental Impact Statement (EIS) and, where required, a Natura Impact Statement (see below).

Where DAFM, following screening, considers that the project could have a significant effect on a European site (e.g. SAC, SPA), the application for consent must be accompanied by a Natura Impact Statement (NIS). In some instances, only an NIS may be required.

If you decide to submit an Environmental Impact Statement, you may ask DAFM for a scoping opinion. Scoping opinions advise what information your application and environmental impact statement should contain. Scoping opinions are useful guides in the preparation of an environmental impact statement.

### Thresholds for Mandatory EIA

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<thead>
<tr>
<th>Type of on-farm Activity</th>
<th>Mandatory EIA</th>
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</thead>
<tbody>
<tr>
<td>Restructuring by removal of field boundaries</td>
<td>Above 50 hectares or over 4 kilometres field boundary being removed, whichever is the lesser</td>
</tr>
<tr>
<td>Re-contouring (within farm-holding)</td>
<td>Above 5 hectares</td>
</tr>
<tr>
<td>Commencing to use uncultivated land or semi-natural areas for intensive agriculture</td>
<td>Above 50 hectares</td>
</tr>
<tr>
<td>Land drainage of any lands (other than wetlands) used for agriculture</td>
<td>Above 50 hectares</td>
</tr>
</tbody>
</table>

Where DAFM, following screening, considers that the project is likely to have a significant effect on a European site (e.g. SAC, SPA), the application for consent must be accompanied by a Natura Impact Statement (NIS) rather than an EIS. (A NIS is a report of a scientific examination of the project and the relevant protected site to identify and characterise any possible implications for the site in view of the site’s conservation objectives).
8.1 Environmental Impact Statement (EIS)
The environmental impact statement (and where required, the Natura Impact Statement) is the central part of your application for consent. You are advised to seek professional advice in regard to the completion of an EIS and a NIS. The precise content of the environmental statement will usually need to include at least:

- a description of the proposed activity;
- an outline of the alternatives you have considered and the reasons for your choice;
- a description of the aspects of the environment likely to be significantly affected by the proposed activity;
- a description of the measures envisaged to avoid, reduce and where possible offset any significant adverse effects on the environment;
- a non-technical summary

A Natura Impact Statement is a report containing the scientific examination of a project and the relevant European site, to identify and characterise any possible implications of the project, individually or in combination with other plans or projects, in view of the conservation objectives of the site, and any information including, but not limited to, any plans, maps or drawings, scientific information or data, together with such information or data as the DAFM considers necessary, and specifies in a notice, as may be required to enable the carrying out of an appropriate assessment.

DAFM will examine the environmental impact statement and, where applicable, the Natura Impact Statement, to see whether it provides all the necessary information, and we may ask for more information from you if it does not.

DAFM will send a copy of your application to any appropriate consultation bodies (as listed in the Regulations, e.g. National Parks and Wildlife Service), giving them 4 weeks (or the timeframe set out in the notice) to make representations.

DAFM will also consult the public by publishing details on the DAFM website. This will alert the public to the fact that an application has been made, it will say where copies of the application and environmental impact statement can be viewed or obtained, and invite representations within 4 weeks of the notice (or the timeframe set out in the notice) being published.

8.2 Consent decision
DAFM will check your application, including the environmental impact statement, and consult the public and others as necessary. DAFM will then make a consent decision on whether or not the project may proceed.

DAFM’s decision on whether to grant consent will take account of information from the applicant and the views of consultation bodies and members of the public. The decision will be to grant consent or refuse consent or DAFM may attach conditions to the consent.
When DAFM has made its decision, DAFM will:

- inform you and any person who made a submission of the DAFM decision, the main reasons and considerations on which it was based;
- inform the public of the decision by publishing details on the DAFM website;
- make available for public inspection various details of the decision, including the main reasons and considerations on which the decision was based.

9. Prohibition notices and reinstatement notices

Prohibition notices can be served if DAFM considers that you have started work on a project without applying to DAFM for screening or consent as appropriate or if you failed to adhere to a condition of a consent decision.

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

Reinstatement notices can be served if DAFM considers that work has been carried out without the necessary screening. Reinstatement notices may require that land is reinstated to its previous condition – or some mitigating works undertaken. It is an offence to contravene a reinstatement notice.

10. Offences

The Regulations create a number of prosecutable offences with fines of up to €5,000 being applicable on summary conviction.

Under the Regulations it is an offence to:

- carry out an activity other than in accordance with decision of the Minister
- contravene a prohibition or a reinstatement notice issued in accordance with the Regulations.

Failure to comply with the Regulations may also lead to liabilities under the Environmental Liabilities Regulations, and to prosecutable offences under the Birds and Habitats Regulations 2011.

11. Review

A consent decision made by DAFM can be referred (by applicant or other person with sufficient interest in the matter or consultation body) to the High Court for review.

An internal review procedure will also operate in DAFM where an applicant wishes to appeal a screening or consent decision.
12. Planning and Development (Amendment) (No.2) Regulations 2011

Drainage or reclamation of wetlands (see section 5.3 for definition of wetlands) is controlled under the Planning and Development (Amendment) (No. 2) Regulations 2011 and the European Communities (Amendment to Planning and Development) Regulations 2011 which Regulations are implemented by the Local Authorities. If you propose to drain or reclaim a wetland you must apply to your local County Council for planning permission. Permission is required where the area impacted by the works exceeds 0.1 hectares or the works may have a significant effect on the environment.

Works in this context include installation of open drains or closed drains (field drains), opening of a watercourse, infilling with earth etc. Cleaning of watercourses and other normal maintenance works are not covered by the Regulations.

Where the development proposed to be carried out is below the threshold for a planning application, it is a matter for the person who proposes to carry out the development to make an assessment as to whether the development is likely to have a significant effect on the environment. If the development would have a significant adverse effect on the environment, it is not exempt from the requirement to obtain planning permission. In assessing whether the development is likely to have a significant effect on the environment, the person concerned should consider the matters set out in Annex 2 of this document. It is likely that you will need to obtain professional advice in this regard (e.g. local NPWS staff, agricultural advisor, ecologist).

An example of sub-threshold works that may have a significant effect on the environment is extending a drain at the margins of a bog that will, as a consequence, impact significantly on the bog.

If you propose to drain or reclaim a wetland where the area impacted by the works exceeds 2 hectares the planning application will have to be accompanied by an Environmental Impact Statement.

<table>
<thead>
<tr>
<th>Planning application required</th>
<th>Planning application (with EIS) required</th>
</tr>
</thead>
</table>
| Drainage or reclamation of wetlands | • Above 0.1 hectares  
• Works may have significant effect on the environment | • Above 2 hectares |
### What does the legislation require you to do?

#### What work is proposed?

- **Restructuring by removal of field boundaries** (over 5 hectares affected or over 500m field boundary being removed or where the proposed works are to be carried out within (or may affect) a proposed NHA or a nature reserve or works may have a significant effect on the environment)

  - YES

- **Restructuring by recontouring**, within farm holding (over 2 hectares affected or where the proposed works are to be carried out within (or may affect) a proposed NHA or a nature reserve or works may have a significant effect on the environment)

  - YES

- **Commencing to use uncultivated land or semi-natural areas for intensive agriculture** (over 5 hectares affected or where the proposed works are to be carried out within (or may affect) a proposed NHA or a nature reserve or works may have a significant effect on the environment)

  - YES

- **Land drainage works** (other than drainage of wetlands) on lands used for agriculture (over 15 hectares affected or where the proposed works are to be carried out within (or may affect) a proposed NHA or a nature reserve or works may have a significant effect on the environment)

  - YES

- **Drainage or reclamtion of wetlands** e.g. bogs, loughs, etc (over 0.1 hectares affected or works may have significant effect on the environment)

  - YES

#### What do you need to do?

- If the answer is **"Yes"** to any of the questions on the left, you need to apply to DAFM for a screening decision before work commences. DAFM will then determine if the works are likely to have a significant effect.

  - YES

  - If DAFM consider that the works are unlikely to have a significant effect you may proceed with the works. If however DAFM consider that the works are likely to have a significant effect and if you wish to proceed with the proposed works you will have to apply for consent and submit an Environmental Impact Statement (EIS), or Natura Impact Statement as appropriate before consent can be considered.

  - YES

#### When is EIS mandatory?

- If the proposed restructuring involves more than 50 hectares of land or more than 4km field boundary being removed or if DAFM consider that the proposed works are likely to have a significant effect...

  - YES

- If the proposed recontouring involves an area of more than 5 hectares of land or if DAFM consider that the proposed works are likely to have a significant effect...

  - YES

- If the proposed works involves an area of more than 50 hectares or if DAFM consider that the proposed works are likely to have a significant effect...

  - YES

- If the proposed drainage works involves an area of more than 50 hectares or if DAFM consider that the proposed works are likely to have a significant effect...

  - YES

- If the proposed drainage or reclamtion of wetlands works involves an area of more than 2 hectares or works are likely to have significant effect.

  - YES

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Annex 1:
Types of habitats

Species-rich grassland upland /lowland
Species-rich grassland can be divided into:
1. Species-rich Wet Grasslands with or without rush cover
2. Species-rich Dry Grasslands
   - Dry calcareous and neutral grasslands
   - Dry-humid acid grasslands
Species-rich grassland contains a number of different species and less than 20% of ryegrass, timothy, white clover, nettles and thistles either individually or in combination. Species-rich grassland will contain at least 10 plant species other than the foregoing mentioned species.

Limestone pavement
Naturally exposed rock over a contiguous area of at least 0.25 hectares (picture – courtesy of J. Cross, NPWS)

Blanket bog
Peat forming vegetation associated with sphagnum (bog) mosses.
Turloughs

Turloughs are seasonally flooded areas where the parent rock is limestone.

Heath

The habitat is characterised by more than 25% cover of dwarf shrubs, including heather or dwarf gorse. This includes all moorland and lowland heathland.

Bracken

Areas of continuous bracken cover in excess of 0.25 ha, at the height of the growing season. It does not include areas with scattered patches of bracken.
Sand dunes

Sand Dunes are coastal habitats consisting of hills and hollows in which unique communities of plants and animals are found in response to the very demanding nature of the dry, windy and salty environment.

Machairs

Machairs are flat, level plains over lime-rich sands which have evolved in response to a unique interaction between wind, high rainfall and historical land use.
Annex 2

Criteria for determining whether a development would or would not be likely to have significant effects on the environment (Equals ANNEX III of Environmental Impact Assessment Directive)

1. Characteristics of projects
The characteristics of projects must be considered having regard, in particular to:
- the size of the project,
- the accumulation with other projects,
- the use of natural resources
- the production of waste,
- pollution and nuisances,
- 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:
- the existing land use,
- the relative abundance, quality and regenerative capacity of natural resources in the area,
- the absorption capacity of the natural environment, paying particular attention to the following areas:
  (a) wetlands;
  (b) coastal zones;
  (c) mountain and forest areas;
  (d) nature reserves and parks;
  (e) areas classified or protected under Member States' legislation; special protection areas designated by Member States pursuant to Directive 79/409/EEC and 92/43/EEC;
  (f) areas in which the environmental quality standards laid down in Community legislation have already been exceeded;
  (g) densely populated areas;
  (h) 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 1 and 2 above, and having regard in particular to:
- the extent of the impact (geographical area and size of the affected population),
- the transfrontier nature of the impact,
- the magnitude and complexity of the impact,
- the probability of the impact,
- the duration, frequency and reversibility of the impact.
Application for an EIA Screening Decision


Please refer to the EIA Guide for Farmers prior to completing this application form.

SECTION A – Personal Details

Name (s) : 
Herd / Flock No : 
Address : 

COUNTY : 
Personal Public Service No (PPS) : 
Phone No : 
REPS No. (if applicable) : 
Mobile : 
AEOS Participant (tick) : 

Please confirm Yes “Y” or No “N”:

OWNERSHIP: Are you the owner of the land where proposed works are to be carried out? 

If you are not the owner, please ensure that the owner completes Section D Declaration at the end of this form.

SECTION B – Details of proposed works

Please indicate which works you propose to carry out: 

(a) Restructuring of rural land holdings

(b) Commencing to use uncultivated land or semi-natural areas for intensive agriculture

(c) Land drainage works on land used for agriculture

Declaration of Lands affected by proposed works – a map of this land must be submitted as part of your application

Please insert FOLIO Number(s) of land(s) affected by proposed works here →

<table>
<thead>
<tr>
<th>Land Parcel Identification System (LPIS) No</th>
<th>Townland(s)</th>
<th>District Electoral Division (DED)</th>
<th>Area (hectares) or linear measurement (kms) of proposed works (clearly specify which)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>3.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
PROTECTED AREAS

NB: The onus is on you, as landowner, to establish whether or not the project location of proposed works is in or near an environmentally sensitive area (as listed below). You should consult with your local National Parks and Wildlife Service Conservation Ranger if necessary.

A. Please tick (√) if the project location of your proposed works is NOT in a sensitive area: OR

B. Please tick (√) the relevant box(es) below if the project location is in, or in close proximity to any of the following categories of sensitive areas (please specify which):

<table>
<thead>
<tr>
<th>Is project location in a sensitive area?</th>
<th>Is project location near a sensitive area?</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) A candidate site of Community importance,</td>
<td>(a) A candidate site of Community importance,</td>
</tr>
<tr>
<td>(b) A site of Community importance,</td>
<td>(b) A site of Community importance,</td>
</tr>
<tr>
<td>(c) A candidate special area of conservation,</td>
<td>(c) A candidate special area of conservation,</td>
</tr>
<tr>
<td>(d) A special area of conservation,</td>
<td>(d) A special area of conservation,</td>
</tr>
<tr>
<td>(e) A candidate special protection area, or</td>
<td>(e) A candidate special protection area, or</td>
</tr>
<tr>
<td>(f) A special protection area</td>
<td>(f) A special protection area</td>
</tr>
</tbody>
</table>

1. in an area designated as a “European site”, which means-
   (a) A candidate site of Community importance, | (a) A candidate site of Community importance, |
   (b) A site of Community importance, | (b) A site of Community importance, |
   (c) A candidate special area of conservation, | (c) A candidate special area of conservation, |
   (d) A special area of conservation, | (d) A special area of conservation, |
   (e) A candidate special protection area, or | (e) A candidate special protection area, or |
   (f) A special protection area | (f) A special protection area |

2. In a Natural Heritage Area (NHA), which means lands subject to a natural heritage area order under section 18 of the Wildlife (Amendment) Act 2000 (No. 38 of 2000):

3. In a “nature area”, which means lands -
   (a) Subject to an order under section 15(2) of the Wildlife Act 1976, as amended by section 26 of the Wildlife (Amendment) Act 2000 (reserves and refuges); | (a) Subject to an order under section 15(2) of the Wildlife Act 1976, as amended by section 26 of the Wildlife (Amendment) Act 2000 (reserves and refuges); |
   (b) Subject to an order under section 16(1) of the Wildlife Act 1976, as amended by section 27 of the Wildlife (Amendment) Act (nature reserves on land other than land to which section 15 applies) | (b) Subject to an order under section 16(1) of the Wildlife Act 1976, as amended by section 27 of the Wildlife (Amendment) Act (nature reserves on land other than land to which section 15 applies) |
   (c) Subject to an order under section 17(9) of the Wildlife Act 1976, as amended by section 28 of the Wildlife (Amendment) Act (refuges for fauna); | (c) Subject to an order under section 17(9) of the Wildlife Act 1976, as amended by section 28 of the Wildlife (Amendment) Act (refuges for fauna); |
   (d) Subject to a notice under section 16(2) of the Wildlife (Amendment) Act 2000 – (proposed NHAs) | (d) Subject to a notice under section 16(2) of the Wildlife (Amendment) Act 2000 – (proposed NHAs) |

4. in the vicinity of a recorded monument, which means historic monuments or archaeological areas (within the meaning of section 1(1) of the National Monuments (Amendment) Act 1987 (No 7 of 1987) recorded on the Register of Historic Monuments or a monument recorded under section 12(1) of the National Monuments (Amendment) Act 1994 (no. 17 of 1994) or a national monument in the ownership or guardianship of the Minister for Arts, Heritage and the Gaeltacht or a local authority under the National Monuments Acts 1930 to 2004.

Further information on protected sites is available on the National Parks & Wildlife Service website www.npws.ie
PROTECTED AREAS (cont.)

If the project location of your proposed works is in or near a sensitive area or a recorded National Monument, please provide relevant reference number:

<table>
<thead>
<tr>
<th>Site Code Description</th>
<th>Site Code Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special Area of Conservation (SAC) Site Code:</td>
<td>_________________________________________________________</td>
</tr>
<tr>
<td>Special Protected Area (SPA) Site Code:</td>
<td>_________________________________________________________</td>
</tr>
<tr>
<td>Natural Heritage Area (NHA) Site Code:</td>
<td>_________________________________________________________</td>
</tr>
<tr>
<td>Monument Record No:</td>
<td>_________________________________________________________</td>
</tr>
<tr>
<td>Description of Monument:</td>
<td>_________________________________________________________</td>
</tr>
</tbody>
</table>

**Nature and extent of the proposed works including the anticipated outcomes (please provide details):**  
(What exactly are you proposing to do and why do you want to do it. For example, taking out hedgerow to make bigger fields is not the answer here. In this example, you should give the reasons why you want bigger fields).

**Details of who will carry out the proposed works (if other than you):**

<table>
<thead>
<tr>
<th>Name</th>
<th>Company name:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Address:</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### SECTION C – Formal Declaration by applicant(s)

a) I have read the EIA Guidance Document and am aware of the requirements attached to my application.

b) I accept that my application may be subject to controls and I agree to co-operate with the Department of Agriculture, Food and the Marine, as required.

c) To the best of my knowledge, all particulars given by me on this form are correct.


e) I understand that the information provided may be shared with other relevant organisations if required for the purpose of processing this application. This includes National Park & Wildlife Service, Dept of Housing, Planning & Local Government, National Monuments Service.

f) I confirm that I am the owner of the land referred to in this Application. IF YOU ARE NOT THE OWNER, please ensure that the owner completes Section D below.

g) I understand that in order for this application for an EIA Screening Decision to be considered, I must attach a map of the land in question, clearly identifying where the proposed works are to be carried out.

### DATA PROTECTION NOTICE:

The Department of Agriculture, Food and the Marine complies with all requirements under Data Protection and Freedom of Information legislation, more information on DAFM’s policy can be found here: [https://www.agriculture.gov.ie/dataprotection/](https://www.agriculture.gov.ie/dataprotection/)

Name(s):

**BLOCK CAPITALS**

Signature(s):

Where the application is made on behalf of more than one person, all parties must sign the form.

Date:

### SECTION D

Formal Declaration by **land owner** (ONLY to be completed where **applicant** does not own land in question)

I confirm that I am the owner of the land referred to in this Application. I hereby grant permission to the applicant to carry out the works as outlined in this application for an EIA Screening Decision.

Signed:  

**Land Owner (BLOCK CAPITALS)**  
**Land Owner (Signature)**

Completed applications should be submitted to:

**Environmental Impact Assessment Section**  
Department of Agriculture, Food & the Marine  
Johnstown Castle Estate  
Wexford  
Co Wexford