EXPLANATORY MEMORANDUM TO

The Planning (Environmental Assessments and Technical Miscellaneous Amendments) (EU Exit) Regulations (Northern Ireland) 2020

SR 2020 No. 300

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Infrastructure to accompany the above Statutory Rule which is laid before the Northern Ireland Assembly.

1.2 This Statutory Rule uses powers in the European Union (Withdrawal) Act 2018, the Planning Act (Northern Ireland) 2011 and section 2(2) of the European Communities Act 1972.

1.3 It is intended that regulations 2 to 5 of the Rule will come into operation on Implementation Period (IP) completion day (31 December 2020) and regulation 6 of the Rule will come into operation immediately before IP completion day.

2. Purpose

2.1 To make the necessary technical miscellaneous changes, which arise as a result of the UK leaving the European Union (EU), including miscellaneous reference amendments and updating EU legislative references to ensure that they will have effect immediately before IP completion day in the following pieces of legislation:

- The Planning (Hazardous Substances) (No.2) Regulations (Northern Ireland) 2015, S.R. 2015 No.344;
- The Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015, S.R. 2015 No.85;
- The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015, S.R. 2015 No.74;
- The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017, S.R. 2017 No.83; and
- The Planning (Environmental Assessments and Miscellaneous Amendments) (EU Exit) (Northern Ireland) Regulations 2018, S.I. 2018 No.1235.

3. Background

3.1 **<u>Hazardous Substances</u>**

Articles 13 and 15 of Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances (the Seveso III Directive) is implemented, in respect of land-use planning obligations, by the Planning (Hazardous Substances) (No.2) Regulations (Northern Ireland) 2015 (S.R. 2015 No.344) ("the Hazardous Substance Regulations"). This SR amends the Hazardous Substances Regulations by replacing a now repealed EU Regulation reference with a current reference and extending the effect of Regulation (EU) 2017/852 to include all EU related updates up to immediately before IP completion day.

3.2 **Management of Waste from Extractive Industries**

Directive 2006/21/EC of the European Parliament and of the Council on the management of waste from extractive industries (the Mining Waste Directive) is implemented, as respects to the development of land, by the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015, (S.R. 2015 No.85) ("the Waste Regulations"). This SR amends the Waste Regulations by removing out-dated EU Directive references which have now been superseded by updated EU references.

3.3 **Environmental Impact Assessment**

Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment (as amended) (the EIA Directive) is implemented in relation to land use planning by the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 (S.R. 2017 No.83), ("the EIA Regulations"). This SR amends the EIA Regulations by extending the effect of EU Directives to include all EU related updates up to immediately before IP completion day.

3.4 **Environmental Assessments and Miscellaneous Amendments**

The Planning (Environmental Assessments and Miscellaneous Amendments) (EU Exit) (Northern Ireland) Regulations 2018, ("the Planning EU Exit Regulations") S.I. 2018 No.1235, are made in exercise of the powers in section 8(1) of the European Union (Withdrawal) Act 2018 (2018 c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the EU. Apart from regulation 9(3)(b), these Regulations are made under the section 8 of that Act and correct deficiencies of the type mentioned in section 8(2)(a) and (g) of that Act – matters which have no practical application to the United Kingdom or are otherwise redundant, and EU references which are no longer appropriate. These Regulations are also made under section 2(2) of the European Communities Act 1972. This SR amends the Planning EU Exit Regulations to ensure legal certainty.

4. Consultation

4.1 A public consultation was not considered necessary because the Statutory Rule makes only minor technical amendments to an existing regime to ensure legal certainty within the status quo. No impact upon stakeholders is envisaged.

5. Equality Impact

5.1 The proposed Statutory Rule does not have any impact on equality of opportunity in any of the groups specified in section 75 of the Northern Ireland Act 1998.

6. Regulatory Impact

6.1 A partial Regulatory Impact Assessment was carried out and did not identify any costs to business or the voluntary sector.

7. Financial Implications

7.1 There will be no financial costs imposed on business as a result of these changes.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Department considers that the legislation complies with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1 There are no EU implications relating to this Statutory Rule prior to IP Completion day.

10. Parity or Replicatory Measure

10.1 All UK jurisdictions have implemented similar changes.

11. Additional Information

11.1 None.

Contact

Please direct any queries to Irene Kennedy at the Department for Infrastructure Tel: 028 90540568 or e-mail: irene.Kennedy@infrastructure-ni.gov.uk.