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Ms Margaret Mitchell MSP

Convener

Justice Committee

The Scottish Parliament

Edinburgh

EH99 1SP

18 January 2017

Dear Margaret,

I am writing to you to let you know that eight sets of legislation will be laid later this year to transpose the Environmental Impact Assessment (EIA) European Directive 2014/52/EU.

The Directive amends the current EIA Directive (Directive 2011/92/EU) which requires that an assessment of the likely significant effects of certain projects on the environment is undertaken before development consent can be granted.

Although the EIA Directive has been amended the aim remains the same, to provide a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation of projects with a view to reducing their impact on the environment. Compliance with EC Directives is mandatory as they form part of European law. Directive 2014/52/EU must be incorporated into domestic legislation of Member States no later than 16 May 2017.

Members States have discretion on how to make the changes required; as such the approach to bring the requirements into Scottish legislation was consulted upon between 09 August 2016 and 31 October 2016. Scottish Ministers' approach to the transposition exercise has been guided by the principles of minimising additional regulatory burden whilst ensuring protection of the environment. In addition the approach aims to align with the better regulation principles of: proportionality, consistency, accountability, transparency, and targeted regulation.

In Scotland the following Regimes each have their own EIA legislation: Planning, Energy consents, Marine Licensing, Trunk roads, Transport and Works projects, Agriculture, Forestry, Ports and Harbours and Flood Management.

A Joint Project took forward the transposition of these regimes apart from Ports and Harbours which is subject to UK legislation and Flood Management which has been taken forward separately by the relevant policy area, Natural Assets and Flooding Division. Eight sets of legislation will cover the regimes included in the Joint Project. A list of the sets of

legislation to be laid along with the portfolio Minister and the Parliamentary Committees are set out in the Annex.

Two of the three sets of Transport legislation, covering Trunk Roads and Transport and Works projects, are subject to an affirmative resolution and it is our intention to lay these in Parliament along with the Transport and Works Amendment Rules which are subject to negative resolution, in early March 2017. The rest are negative and it is anticipated that these will be laid in early April 2017. The various regime sets of regulations, other than Transport and Works projects, are stand alone and do not cross-reference each other.

In the Joint Project we have sought to provide as much consistency as possible in our approach to the transposition across the regimes. As such we will provide a single Business Regulatory Impact Assessment and Equality Impact Assessment alongside all the legislation. Individual legislation policy notes will reference the other legislation relating to the EIA Directive.

The EIA Transposition Team taking forward the Joint Project has suggested that it would be beneficial to meet with Committee Clerks later in the month to discuss the handling of the legislation in more detail. Please contact Bill Brash on 0131 244 0039 to arrange the meeting.

Yours,

Roseanna Cunningham

The following legislation will be laid in Scottish Parliament

| Committee | Legislation | Resolution | Minister |
|---|--|-------------------|---|
| Rural Economy and Connectivity Committee | The Agriculture and Land Drainage (Environmental Impact Assessment) (Scotland) Regulations 2017 | Negative | Cabinet Secretary for the Rural Economy & Connectivity |
| | The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017 | Negative | Cabinet Secretary for the Rural Economy & Connectivity |
| | The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017 | Affirmative | Minister for Transport & Islands |
| | The Transport and Works (Scotland) Act 2007 (Environmental Impact Assessment) Regulations 2017 | Affirmative | Minister for Transport & Islands |
| | The Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Amendment Rules 2017 | Negative | Minister for Transport & Islands |
| Economy, Jobs and Fair Work Committee | The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 | Negative | Minister for Business, Innovation & Energy |
| Environment, Climate Change and Land Reform Committee | The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 | Negative | Cabinet Secretary for the Environment, Climate Change & Land Reform |
| Local Government and Communities Committee | The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 | Negative | Minister for Local Government & Housing |