On 16 May 2017 a revised set of EIA Regulations came into effect. Alison Carroll reviews some of the changes that have come about since then.

Amendments to the EIA Regulations
Since May 2017 a total of 61 amendments have been made to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. These changes are as a result of the following pieces of legislation:

- The Conservation of Habitats and Species Regulations 2017;
- The Town and Country Planning (Permission in Principle) (Amendment) Order 2017;
- The Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018;
- The Environment, Food and Rural Affairs (Miscellaneous Amendments) (England) Regulations 2018;
- The Nuclear Reactors (Environmental Impact Assessment for Decommissioning) (Amendment) Regulations 2018;

One of the key changes was introduced by the Town and Country Planning and Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2018. This amended the applicable thresholds and criteria in Schedule 2 in relation to 10(a) Industrial Estate Development Projects.

The 0.5-hectare threshold was changed back to the 5-hectare threshold that previously applied.

All of these changes have yet to be applied to text of the EIA Regulations that is available online. It is, therefore, worth being aware of them (see: www.legislation.gov.uk/changes/affected/uksi/2017/571).

Amendments to EIA Guidance
A number of IEMA EIA publications were issued in anticipation of the 2017 EIA Regulations. These included documents relating to the assessment of greenhouse gases and health impact assessment. In terms of official guidance, the MHCLG guidance was updated at the end of July 2017. The Environmental Impact Assessment guidance was last updated in March 2019, reflecting the above noted regulatory changes where applicable.

CIEEM’s updated Guidelines for Ecological Impact Assessment in the UK and Ireland. Terrestrial, Freshwater, Coastal and Marine were released in September 2018.

EIA Screening
Back in December 2016 when the DCLG consulted on the proposed changes to the EIA Regulations it was anticipated that developers would seek to demonstrate that their project will not be likely to have significant environmental effects through earlier consideration of mitigation or avoidance measures. The DCLG indicated that this should help reduce the number of projects subject to EIA.
A review of government statistics does not, however, suggest that this has been borne out in practice. Whilst not a record of all Environmental Statements submitted in England, the data submitted by District Planning Authorities provides an indication of trends.

Table 1: ES Submitted in England as Reported by District Planning Authorities

<table>
<thead>
<tr>
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<th>Year Ending June 2016</th>
<th>Year Ending June 2017</th>
<th>Year Ending June 2018</th>
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<tbody>
<tr>
<td>Total planning applications</td>
<td>482,731</td>
<td>479,217</td>
<td>464,841</td>
</tr>
<tr>
<td>ES Submitted</td>
<td>433</td>
<td>411</td>
<td>423</td>
</tr>
<tr>
<td>% of planning applications</td>
<td>0.1</td>
<td>0.1</td>
<td>0.1</td>
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</tbody>
</table>

In percentage terms, it still equated to 0.1% of planning applications.

In our own experience, we have found it beneficial to work with clients to advise on the best time to submit requests for screening opinions. In borderline cases, a sensitive, iterative design approach can result in embedded mitigation which means that the likelihood of significant effects is avoided. We have also seen borderline cases where others have requested screening opinions without benefit of such consideration and EIA has thus been required.

The number of ES submitted to the year ending June 2018 is still in line with the 0.1% of planning applications over comparable periods in 2016 and 2017. For the year ending December 2018, the number of ES submitted was 360. Until the data is available for the year ending June 2019 it is not possible to infer whether this is the start of a downward trend, especially as there was also a reduction in the total number of planning applications received during the period.

Prior to the 2017 EIA Regulations our experience was that the three-week deadline was rarely met. This has not changed. In one case from last year it took a local planning authority eight weeks to issue their screening opinion – the same time it should take to determine a routine planning application.

What next?

Looking forward, leaving the EU is likely to have further implications for the EIA Regulations beyond those changes already incorporated into the text. Quite when these changes will come about and in what form remains to be seen.

This article was written as a contribution to the EIA Quality Mark’s commitment to improving EIA practice. Alison Carroll is an Associate at Nicholas Pearson Associates and is a Chartered Environmentalist, Full Member of IEMA and IEMA Registered EIA Practitioner, May 2019.