



STATUTORY INSTRUMENTS.

S.I. No. 457 of 2012

EUROPEAN UNION (ENVIRONMENTAL IMPACT ASSESSMENT)
(INTEGRATED POLLUTION PREVENTION AND CONTROL) (NO. 2)
REGULATIONS 2012

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I, PHIL HOGAN, Minister for the Environment, Community and Local Government, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Directive No. 2011/92/EU of the European Parliament and of the Council of 13 December 2011¹ on the assessment of the effects of certain public and private projects on the environment hereby make the following regulations:

1. (1) These Regulations may be cited as the European Union (Environmental Impact Assessment) (Integrated Pollution Prevention and Control) (No. 2) Regulations 2012.

2. In these Regulations—

“Act of 1992” means the Environmental Protection Agency Act 1992 (No. 7 of 1992);

“Act of 2000” means the Planning and Development Act 2000 (No. 30 of 2000);

“Regulations of 2012” means the European Union (Environmental Impact Assessment) (Integrated Pollution Prevention and Control) Regulations 2012 (S.I. No. 282 of 2012).

3. Section 83 (amended by Regulation 4(1) of the Regulations of 2012) of the Act of 1992 is amended in subsection (2A)—

(a) in paragraph (b), by substituting “(1I)” for “(1H)”,

(b) in paragraph (c), by substituting “(1I)” for “(1H)”, and

(c) in paragraph (d), by substituting “(1I)” for “(1H)”.

4. Section 87(1A) (inserted by Regulation 5(1)(a) of the Regulations of 2012) of the Act of 1992 is amended in paragraph (a), by substituting “(1I)” for “(1H)”.

5. (1) Section 87 (amended by Regulation 5(1) of the Regulations of 2012) of the Act of 1992, is amended—

(a) by inserting the following subsection after subsection (1H):

¹O.J. No. L26, 28.1.2012 p.1

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 23rd November, 2012.*

“(1I) (a) This subsection applies—

- (i) notwithstanding subsections (1B) to (1H),
 - (ii) to an application for a licence made to the Agency before 30 September 2012.
- (b) Where the Agency is considering an application for a licence to which this subsection applies and the Agency under section 83(2A) decides that an environmental impact assessment is required in relation to the activity concerned, the Agency shall, if an environmental impact statement was not submitted with the application for a licence, request the applicant to submit an environmental impact statement and where the applicant fails to submit such statement within the period specified in the request, or any additional period as may be specified by the Agency, the application for a licence shall be deemed to be withdrawn.
- (c) Where an environmental impact statement is submitted to the Agency with the application for a licence or in accordance with a request under paragraph (b)—
- (i) the Agency shall consider the content of the environmental impact statement and any other material including maps or plans submitted as part of the application for a licence and determine whether that content adequately identifies, describes, and assesses the direct and indirect effects of the proposed activity on the environment, and
 - (ii) if the Agency determines that the environmental impact statement and other material does not so adequately identify, describe or assess, the Agency shall give notice in writing to the applicant for the licence requesting further information, which notice shall—
 - (I) identify the manner in which the content of the environmental impact statement and other material is inadequate, and
 - (II) require the applicant for the licence to furnish, within the period specified in the notice, to the Agency additional information required to correct the inadequacy so identified.
- (d) Where the applicant concerned fails to comply with a requirement under paragraph (c), the Agency may, as it considers it appropriate having regard to the extent of the failure, inform the applicant, by notice in writing of such failure

and that the application for a licence cannot be considered by the Agency.

- (e) Where an environmental impact statement is submitted to the Agency in accordance with a request under paragraph (b), the application for a licence shall be deemed to be made on the date of receipt by the Agency of the environmental impact statement and this subsection shall continue to apply to the application for a licence notwithstanding that the date of receipt shall be on or after 30 September 2012.
- (f) Where an environmental impact statement is submitted to the Agency in accordance with a request under paragraph (b), the Agency shall do the following—
 - (i) within 2 weeks of the date of receipt of such statement notify the planning authority in whose functional area the activity is or will be situate that it has received an application to which this subsection applies and request the planning authority concerned to respond to the Agency within 4 weeks of the receipt of the notice and furnish any observations that the planning authority has in relation to the application for a licence including the environmental impact statement,
 - (ii) consider any observations furnished to the Agency following a request under subparagraph (i) by the planning authority before making its decision under section 83(1) or section 90(2) in relation to the application for a licence, and
 - (iii) enter into consultations, as the Agency considers appropriate, with the planning authority or any person or body that it considers appropriate in relation to any environmental impacts of the proposed activity to which the application for a licence relates.
- (g) Where an environmental impact statement was submitted with the application for a licence, the Agency shall do the following—
 - (i) notify the planning authority in whose functional area the activity is or will be situate that it has received an application to which this subsection applies and request the planning authority to respond to the Agency within 4 weeks of receipt of the notice and furnish any observations that the planning authority has in relation to the application for a licence including the environmental impact statement,

- (ii) consider any observations furnished to the Agency following a request under subparagraph (i) by the planning authority before making its decision under section 83(1) or section 90(2) in relation to the application for a licence, and
- (iii) enter into consultations, as the Agency considers appropriate, with the planning authority or any person or body that it considers appropriate in relation to any environmental impacts of the proposed activity to which the application for a licence relates.”,

(b) in subsection (3A)—

(a) by substituting “(1B) or (1I) applies” for “(1B) applies”, and

(b) by substituting “(1F), (1H) or (1I)” for “(1F) or (1H)”, and

(c) by inserting the following subsection after subsection (3A):

“(3B) (a) Notwithstanding subsection (3), in relation to an application for a licence within the meaning of subsection (1A), to which subsection (1I) applies, the Agency may extend the period of 8 weeks referred to in subsection (3) by such period as the Agency considers necessary to enable the Agency to comply with subsection (1I).

(b) The Agency shall give notice in writing of the extension of the period under paragraph (a) to a person referred to in paragraph (a), (aa), (b), (c) or (d) of subsection (2).”.

(2) Nothing in regulations made under section 85 or 89 of the Act of 1992 in force on the coming into operation of these Regulations shall be construed as—

(a) restricting the Agency from performing its functions, or

(b) affecting any requirement or obligation imposed on the Agency or any person referred to in or prescribed under section 87(2) of the Act of 1992,

pursuant to the amendments to section 87 of the Act of 1992 effected by paragraph (1).

6. Section 173A (inserted by Regulation 8 of the Regulations of 2012) of the Act of 2000 is amended by inserting the following subsection after subsection (6):

“(7) Where a planning authority receives a notification from the Environmental Protection Agency that it has received an application for a licence to which section 87(1I) of the Act of 1992 applies, the planning authority shall—

- (a) within 4 weeks of the date of receipt of the notification from the Environmental Protection Agency, respond to the Agency, forwarding any observations that it has in relation to the application for a licence including any observations on the environmental impact statement, and
- (b) enter into consultations with the Environmental Protection Agency, as the Agency considers appropriate, in relation to any environmental impacts of the proposed activity to which the application for a licence relates.”.

7. (1) These Regulations apply to an application for a licence or an application by the licensee for the review of a licence or a revised licence under Part IV of the Act of 1992, made to the Environmental Protection Agency before 30 September 2012.

(2) Notwithstanding Regulation 9 of the Regulations of 2012, the amendments to the Act of 1992 effected by the following regulations of the Regulations of 2012 apply to an application to which these Regulations apply:

- (a) Regulation 3;
- (b) Regulation 4(1) and (2), insofar as they relate to—
 - (i) paragraph (a), (b), (c), (d), (e) or (g) of subsection (2A),
 - (ii) paragraph (e)(i) of subsection (3), and
 - (iii) paragraph (aa) of subsection (4),

of section 83 of the Act of 1992,

- (c) Regulation 5(1) and (2), insofar as they relate to—
 - (i) the definition of “application for a licence” inserted in subsection (1A),
 - (ii) subsection (2) and (2)(aa),
 - (iii) subsection (8)(a)(ia), and
 - (iv) subsection (9A),

of section 87 of the Act of 1992,

- (d) Regulation 6(1) and (2), insofar as they relate to subsection (2) of section 89 of the Act of 1992.



GIVEN under the Official Seal of the Minister for the Environment,
Community and Local Government.
15 November 2012.

PHIL HOGAN,
Minister for the Environment, Community and
Local Government.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations amend the Environmental Protection Agency Act 1992 (No. 7 of 1992) and the Planning and Development Act 2000 (No. 30 of 2000) so as to ensure that an environmental impact assessment is carried out, where required under Directive No. 2011/92/EC, in relation to relevant decisions of the Environmental Protection Agency to grant an integrated pollution prevention and control licence. These Regulations apply to integrated pollution prevention and control licence applications made to the Agency before 30 September 2012.

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