



STATUTORY INSTRUMENTS.

S.I. No. 652 of 2016



WASTE WATER DISCHARGE (AUTHORISATION)
(ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2016

WASTE WATER DISCHARGE (AUTHORISATION)
(ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2016

I, SIMON COVENEY, Minister for Housing, Planning, 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 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:

Citation

1. These Regulations may be cited as the Waste Water Discharge (Authorisation) (Environmental Impact Assessment) Regulations 2016.

Interpretation

2. In these Regulations—

“Agency” means the Environmental Protection Agency;

“application for a licence” means an application made to the Agency for a waste water discharge licence under the principal Regulations and “review of a licence” shall be construed accordingly;

“environmental impact assessment” means an assessment, to include an examination, analysis and evaluation, carried out by the Agency in accordance with these Regulations that shall identify, describe and assess in an appropriate manner, in light of each individual case and in accordance with Articles 4 to 11 of Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment, the direct and indirect effects of a proposed activity on the following:

- (i) human beings, flora and fauna;
- (ii) soil, water, air, climate and the landscape;
- (iii) material assets and the cultural heritage;
- (iv) the interaction between the factors referred to in paragraphs (i), (ii) and (iii);

¹OJ No. L26, 28.1.2012 p.1

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 6th January, 2017.*

“principal Regulations” means the Waste Water Discharge (Authorisation) Regulations 2007 (S.I. No. 684 of 2007).

Screening for Environmental Impact Assessment

3. (1) Where an application is made for a licence or for a review of a licence where no development is required, or where the Agency instigates a review of a licence under Regulation 14 of the principal Regulations, the Agency, as part of its consideration of the application or of the review, shall carry out a screening for an environmental impact assessment before a decision on the application is made.

(2) The Agency shall have due regard to the information provided by the applicant in carrying out screening under this Regulation and may require the applicant, within such period as may be specified by the Agency, to take such steps or furnish such submissions, plans, documents or other information and particulars as the Agency considers necessary.

(3) The Agency shall determine that an environmental impact assessment is required if it cannot be excluded, following screening under this Regulation, that the proposed activity will have a significant effect on the environment by virtue, *inter alia*, of its nature, size or location.

(4) The Agency shall determine that an environmental impact assessment is not required where it can be excluded, following screening under this Regulation, that the proposed activity will have a significant effect on the environment.

(5) The screening exercise undertaken under this Regulation, including the reasons for the Agency’s determination, shall be published by the Agency on its website as soon as practicable after the determination is made.

Environmental Impact Assessment

4. (1) Where the Agency, as a result of a screening exercise undertaken under Regulation 3, concludes that the activity for which application for a licence or for review of a licence is being made is likely to have a significant effect on the environment, the Agency shall, prior to making a decision on the application, undertake an environmental impact assessment as described in Regulation 2 with respect to the matters that come within the functions of the Agency and may accordingly request the applicant to submit an environmental impact statement within such period as may be specified by the Agency.

(2) The Agency shall consider whether an environmental impact statement submitted by the applicant, whether under paragraph (1) or under Regulation 17 of the principal Regulations, identifies and describes adequately the direct and indirect effects on the environment of the proposed activity and where it considers that the environmental impact statement does not identify or adequately describe such effects, the Agency shall require the applicant to furnish, within a specified period, such further information as the Agency considers necessary to remedy such defect.

(3) In addition to any requirement arising under paragraph (1), the Agency shall require the applicant, within such period as may be specified by the Agency, to take such steps or furnish such submissions, plans, documents or other information and particulars as the Agency considers necessary to enable it to carry out an environmental impact assessment under this Regulation.

(4) Where information required by the Agency under paragraphs (1) to (3) is not furnished by the applicant within the period specified, or any further period as may be specified by the Agency, the Agency may notify the applicant that the application cannot be considered by the Agency.

(5) In carrying out an environmental impact assessment under this Regulation, the Agency shall consider the environmental impact statement, any further information furnished to the Agency under paragraphs (2) or (3) and any submissions or observations made in relation to the application.

(6) When making a decision on an application for a licence or for a review of a licence, the Agency shall have regard to the findings of any environmental impact assessment carried out under these Regulations.

Amendments to the Principal Regulations

5. (1) The principal Regulations are amended in Regulation 41 by:

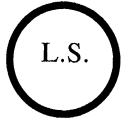
- (a) substituting “Subject to Regulation 42(2) and notwithstanding Part 3 and sections 175, 177AE and 226 of the Act of 2000,” for “Subject to Regulation 42(2), and notwithstanding sections 34, 37, 37E, 175 and 226 of the Act of 2000,” in paragraph (1);
- (b) substituting “a planning authority, or An Bord Pleanála, where it decides to grant a permission under Part 3 of the said Act,” for “a planning authority, or An Bord Pleanála, where it decides to grant a permission under section 34, 37 or 37E on appeal or otherwise, as the case may be, of the said Act,” in paragraph (1)(a);
- (c) substituting “an approval under section 175, 177AE or 226 of the said Act,” for “an approval under section 175 or 226 of the said Act,” in paragraph (1)(b).

(2) The principal Regulations are amended in Regulation 43 by substituting “Where a planning authority or An Bord Pleanála is considering an application for permission as defined in section 173C of the Act of 2000” for “Where a planning authority or An Bord Pleanála is considering an application for permission, an appeal or an application for approval under section 34, 37, 37E, 175 or 226 of the Act of 2000 (as amended)” in paragraph (1).

(3) The principal Regulations are amended in Regulation 44 by substituting the word “shall” for the word “may” in the third line of paragraph (1).

Performance of Functions

6. Nothing in these Regulations shall be construed as restricting the Agency from performing its functions or affecting any requirement or obligation imposed on the Agency by the principal Regulations.



GIVEN under my official Seal,
21 December 2016.

SIMON COVENEY,
Minister for Housing Planning Community and
Local Government.

EXPLANATORY NOTE

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

The purpose of these Regulations is to give further effect in Irish law to Articles 2 to 4 of Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment.

The Regulations provide that where an application is made to the Environmental Protection Agency for a waste water discharge licence or for the review of a waste water discharge licence in a case where there is no requirement for physical development, that the Agency must carry out screening for environmental impact assessment before granting any licence and may carry out an environmental impact assessment if it deems it appropriate.

An amendment is also made to the Waste Water Discharge (Authorisation) Regulations 2007 (No. 684 of 2007) placing an onus on a planning authority and An Bord Pleanála to consult the Agency where the authority or the Board considers that a proposed development is likely to have a significant impact on waste water discharges.

Further amendments to the 2007 Regulations update the cross-referencing to the Planning and Development Act 2000 (No. 30 of 2000), reflecting amendments to that Act.

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nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€2.54



Wt. (B32491). 285. 1/17. Essentra. Gr 30-15.