



STATUTORY INSTRUMENTS.

S.I. No. 246 of 2012



EUROPEAN UNION (ENVIRONMENTAL IMPACT ASSESSMENT AND
HABITATS) REGULATIONS 2012

EUROPEAN UNION (ENVIRONMENTAL IMPACT ASSESSMENT AND HABITATS) REGULATIONS 2012

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 2011/92/EU¹ of the European Parliament and of the Council and Council Directive 92/43/EEC² of 21 May 1992, amended by Council Directive 97/62/EC³ of 27 October 1997, Council Directive 2006/105/EC⁴ of 20 November 2006, Act of Accession of Austria, Sweden and Finland⁵ and Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded⁶, hereby make the following Regulations:

1. These Regulations may be cited as the European Union (Environmental Impact Assessment and Habitats) Regulations 2012.

2. In these Regulations:

“Act of 2000” means the Planning and Development Act, 2000;

“Act of 2010” means the Planning and Development (Amendment) Act 2010.

3. Section 261A (inserted by section 75 of the Act of 2010) of the Act of 2000 is amended—

(a) by substituting “the cessation of the unauthorised quarrying” for “the cessation of the operation of the quarry” in—

(i) subsection (4)(c)(iii),

(ii) subsection (5)(c)(iv),

(iii) subsection (8),

(iv) subsection (9),

¹ O.J. L26, 28.1.2012, p. 1

² O.J. L206, 22.7.1992, p. 7

³ O.J. L305, 8.11.1997, p. 42

⁴ O.J. L284, 31.19.2003, p. 1

⁵ O.J. C421, 29.8.1994, p. 21

⁶ O.J. L236, 23.9.2003, p. 33

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 13th July, 2012.

- (v) subsection (11), and
 - (vi) subsection (13),
- (b) by substituting “subparagraph (i) or (ii) or both, if applicable, of subsection (2)(a) apply to the development which” for “the development the subject of the determination under subsection (2)(a)” in—
- (i) subsection (5)(a),
 - (ii) subsection (5)(c)(ii),
 - (iii) subsection (5)(d)(ii),
 - (iv) subsection (6)(a)(iv),
 - (v) subsection (11)(b),
 - (vi) subsection (12)(b), and
 - (vii) subsection (13)(b),
- (c) by inserting the following subsections after subsection (15):

“(16) On or before 15 August 2012, notwithstanding sections 177C and 177D, the Board shall refuse to consider, in respect of a quarry, an application for leave to apply for substitute consent under section 177C made to the Board during the period commencing on 15 November 2011 and ending on 15 August 2012 and shall return any such application to the person who makes the application.

(17) Nothing in subsection (16) shall prevent the Board from considering, in respect of a quarry, an application for leave to apply for substitute consent under section 177C made to the Board after 15 August 2012.

(18) (a) The Board, before considering any application, in respect of a quarry, for leave to apply for substitute consent under section 177C shall make enquiries and request information of the applicant or planning authority concerned as to whether one of the following has occurred:

- (i) the planning authority, under this section, has decided that no notice is required to be issued in respect of the quarry concerned;
- (ii) a notice was issued by the planning authority under subsection (4) or (5) and no application was made to the Board for a review of such notice within the period specified in subsection (6)(a);

- (iii) a notice was issued by the planning authority under subsection (3), (4) or (5) and an application was made to the Board for a review of such notice within the period specified in subsection (6)(a);
 - (iv) an enforcement notice was issued by the planning authority under subsection (8), (9), (11) or (13), which notice has or has not been complied with.
- (b) When the information requested at paragraph (a) has been received by the Board it may proceed to consider the application for leave to apply for substitute consent, save that where a notice under subsection (3), (4) or (5) has been referred to the Board for a review under subsection (6), it may not proceed to consider the application for leave concerned until it has made a decision on the application for a review under subsection (6).
- (c) The Board shall, when considering an application for leave to apply for substitute consent in relation to a quarry, in addition to any matter referred to in sections 177C and 177D, take into account the matters referred to at paragraph (a) including any decision made by the Board under subsection (6) on an application for a review of a notice issued by a planning authority referred to it under that subsection.

(19) Section 177D(5) shall apply in relation to an application, in respect of a quarry, for leave to apply for substitute consent subject to the modification that it shall be read as if in that subsection the following subparagraph were included and subject to any other necessary modifications:

“(aa) 6 weeks after the Board has received information following enquiries under section 261A(18) or 6 weeks after the Board makes a decision on an application for a review under section 261A(6) of a notice issued by a planning authority whichever shall be later.”.

4. The amendments effected by paragraph (c) of Regulation 3 shall apply in relation to, in respect of a quarry, an application for leave to apply for substitute consent under section 177C (inserted by section 57 of the Act of 2010) of the Act of 2000 notwithstanding that the application concerned was made to, but not decided by, the Board prior to the coming into operation of these Regulations and on the coming into operation of these Regulations, without prejudice to subsection 17 (inserted by the amendments effected by paragraph (c) of Regulation 3) of section 261A of the Act of 2000, the Board shall cease consideration of the application concerned and return it to the person who made it.



GIVEN under my Official Seal,
9 July 2012.

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

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,
CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased directly from the
GOVERNMENT PUBLICATIONS SALE OFFICE
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2,
or by mail order from
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,
UNIT 20 LAKESIDE RETAIL PARK, CLAREMORRIS, CO. MAYO,
(Tel: 01 - 6476834 or 1890 213434; Fax: 094 - 9378964 or 01 - 6476843)
or through any bookseller.

€2.54

