



STATUTORY INSTRUMENTS.

S.I. No. 142 of 2013

EUROPEAN COMMUNITIES (ENVIRONMENTAL IMPACT
ASSESSMENT) (AGRICULTURE) (AMENDMENT) REGULATIONS
2013

EUROPEAN COMMUNITIES (ENVIRONMENTAL IMPACT
ASSESSMENT) (AGRICULTURE) (AMENDMENT) REGULATIONS
2013

I, SIMON COVENEY, Minister for Agriculture, Food and the Marine, 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 effect to Council Directive No. 2011/92/EU of 13 December 2011¹, insofar as it applies to development consent in respect of certain proposed on-farm activities, hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Environmental Impact Assessment) (Agriculture) (Amendment) Regulations 2013.

2. The European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011 (S.I. No. 456 of 2011) are amended—

(a) in Regulation 2(1)—

(i) by inserting after “applicant” the following definition:

“‘appropriate assessment’ has the same meaning as in Article 6(3) of the Habitats Directive.”,

(ii) by substituting for the definition of “EIA Directive”, the following:

“‘EIA Directive’ means Council Directive No. 2011/92/EU of 13 December 2011.”,

(iii) by inserting, after “EIA Directive”, the following definition:

“‘environmental impact assessment’ means an examination, analysis and evaluation carried out by the Minister 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 the EIA Directive, the direct and indirect effects of a proposed development on the following:

(a) human beings, flora and fauna,

(b) soil, water, air, climate and the landscape,

¹OJ No. L 26, 28.1.2012, p. 1.

(c) material assets and the cultural heritage, and

(d) the interaction among the factors mentioned in paragraphs (a), (b) and (c);”,

(iv) by substituting for the definition of “EIS” the following:

“ ‘EIS’ means an environmental impact statement submitted by the applicant, which shall identify the environmental impacts that the proposed development will have or is likely to have on the environment and shall include the information specified in Schedule 3;”,

and

(v) by substituting for the definition of “Minister” the following:

“ ‘Minister’ means for Agriculture, Food and the Marine;”,

(b) by inserting into Regulation 2, the following:

“(5) These Regulations are in addition to the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011).”,

(c) by substituting for Regulation 8(8) the following:

“(8) The Minister shall publish a decision made under this Regulation.”,

(d) by inserting following Regulation 9(1) the following:

“(1A) The Minister shall, in deciding whether an activity referred to in paragraph (1) may have a significant effect on the environment shall have regard to Schedule 2.”,

(e) by substituting Regulation 13 for the following:

“Decision of Minister (supplemental provisions) (environmental impact assessment).

13. (1) The Minister shall, as part of his or her consideration of an application made under Regulation 9(1), ensure that before a decision is made the application is subjected to an environmental impact assessment and an appropriate assessment where the activity is likely to have significant effects on a European site.

(2) The Minister shall require the production by the applicant of any additional or supplemental information that the Minister considers necessary to enable the Minister to make an assessment as required under paragraph (1).

(3) The Minister shall consider the content of the EIS (and any other material including maps or plans) and, where relevant the Natura impact statement, submitted as part of the application and determine whether these items adequately identify, describe and assess the direct and indirect effects of the proposed activity. If the EIS (or other material) or where relevant the Natura Impact statement is, in the opinion of the Minister, inadequate, the Minister shall serve a notice which sets out the manner in which the information is inadequate and require the applicant to submit further information to remedy these inadequacies.

(4) The Minister, in carrying out an environmental impact assessment, shall have regard to the following matters:

- (a) the particulars submitted with the application for approval including the EIS and any other material (including maps and plans),
- (b) any additional material submitted in response to a request for further information, if any, pursuant to paragraphs (2) and (3),
- (c) any submissions or observations made in relation to the effects on the environment of the proposed activity including those made by consultation bodies or public,
- (d) the views, if any, furnished by other Member States pursuant to Part 5,
- (e) any relevant policy of a Minister of the Government,
- (f) any acts of the institutions of the European Union,
- (g) the requirements of these Regulations,
- (h) any other legal requirements, and
- (i) any other matter that the Minister considers relevant, including the capacity of the applicant to carry out the activities in accordance with an approval.

(5) In the case of an application accompanied by a Natura impact statement, the Minister shall carry out an assessment of the proposed activity including consideration of the Natura impact statement and shall not grant consent for the proposed activity unless he or she is satisfied that it would not have an adverse impact on the integrity of the site.

(6) The Minister, in carrying out an environmental impact assessment and the appropriate assessment, shall have regard to, and may adopt in whole or in part, any reports prepared by his or her officials or by consultants, experts or other advisors.

(7) The Minister may grant consent, refuse consent or may attach such conditions to a consent as he or she considers necessary.

(8) The Minister shall refuse consent if, in his or her opinion—

(a) the EIS or Natura impact statement, as the case may be, is inadequate,

(b) the proposed activity—

(i) fails to comply with any of the matters specified in paragraphs (4)(e) to (h),

(ii) is likely to have an adverse impact on human health, or

(iii) is likely to have significant adverse impact on—

(I) animal or plant health, or

(II) water quality.”,

(f) by substituting Regulation 14(1) for following:

“14. (1) The Minister shall, as soon as possible, after making a decision under Regulation 13, notify in writing the applicant and, subject to paragraph (3), any person who made a submission or observation in accordance with Regulations 11 or 12 or Part 5 of—

(a) the decision to grant or refuse approval and, in the case of a decision to grant approval, any conditions attached to the approval,

(b) the main reasons and considerations on which the decision to grant or refuse an approval is based, and where conditions are attached to any grant of approval, the reasons for the conditions,

(c) the Minister’s evaluation of the application’s direct and indirect effects on the following:

(i) human beings, flora and fauna,

(ii) soil, water, air, climate and the landscape,

(iii) material assets and the cultural heritage, and

- (iv) the interaction among the factors mentioned in paragraphs (i), (ii) and (iii),
- (d) the reports referred to in Regulation 13(6) to which the Minister had regard in carrying out an environmental impact assessment,
- (e) a description, where necessary, of the main measures to avoid, reduce, and if possible, offset the major adverse effects of the development.”,

(g) by substituting Regulation 15 for the following:

“15. (1) The High Court shall be the court of law for the purposes of Article 11 of the EIA Directive.

(2) An application to review a decision shall be made by way of application for judicial review under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986).

(3) The High Court shall not grant leave for judicial review unless the person making the application—

(a) has a sufficient interest in the matter, or

(b) the person making the application for judicial review is a body or organisation (other than a State authority, a public authority or governmental body or agency) the aims or objectives of which relate to the promotion of environmental protection, that has, during the period of 12 months preceding the date of the application, pursued those aims or objectives.

(4) The Court shall, in determining either an application for leave for judicial review, or an application for judicial review on foot of such leave, act as expeditiously as possible consistent with the administration of justice.

(5) In this Regulation—

“decision” means—

(a) any decision or purported decision made or purportedly made,

(b) any action taken or purportedly taken, or

(c) any failure to take any action;

“sufficient interest” is not limited to an interest in land or other financial interest.”,

(h) by substituting Regulation 20 for the following:

“20. An offence under these Regulations may be prosecuted summarily by the Minister.”,

and

(i) by substituting Schedule 3 for the Schedule attached to these Regulations.

SCHEDULE

Regulation 10

“Schedule 3

INFORMATION TO BE CONTAINED IN AN ENVIRONMENTAL IMPACT
STATEMENT

1. A description of the activity, including in particular:
 - (a) a description of the physical characteristics of the whole project and the land-use requirements during the construction and operational phases;
 - (b) a description of the main characteristics of the production processes, for instance, the nature and quantity of the materials used;
 - (c) an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the activity.
2. An outline of the main alternatives studied by the applicant and an indication of the main reasons for this choice, taking into account the environmental effects.
3. A description of the aspects of the environment likely to be significantly affected by the proposed project, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the interrelationship between the above factors.
4. A description of the likely significant effects of the proposed activity on the environment resulting from:
 - (a) the existence of the project;
 - (b) the use of natural resources;
 - (c) the emission of pollutants, the creation of nuisances and the elimination of waste.
5. The description² by the developer of the forecasting methods used to assess the effects on the environment referred to in point 4.

²This description should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the project.

6. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.

7. A non-technical summary of the information provided under paragraphs 1 to 6.

8. An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the applicant in compiling the required information.”.



GIVEN under my Official Seal,
19 April 2013.

SIMON COVENEY,
Minister for Agriculture, Food and the Marine.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
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.

€3.05



Wt. (B29825). 285. 4/13. Clondalkin. Gr 30-15.