



STATUTORY INSTRUMENTS.

S.I. No. 407 of 2017

EUROPEAN COMMUNITIES (ENVIRONMENTAL IMPACT
ASSESSMENT) (AGRICULTURE) (AMENDMENT) REGULATIONS
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I, MICHAEL CREED, 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 Directive No 2011/92/EU of the European Parliament and of the Council of 13 December 2011¹ as amended by Directive 2014/52/EU of the Parliament and of the Council of 16 April 2014², 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 2017.

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

(a) in Regulation 2(1) by substituting for the definition of—

(i) “EIA Directive” (as substituted by the European Communities (Environmental Impact Assessment) (Agriculture) (Amendment) Regulations 2013 (S.I. 142 of 2013)), the following:

“‘EIA Directive’ means Council Directive No. 2011/92/EU of 13 December 2011 as amended by Directive 2014/52/EU of the Parliament and of the Council of 16 April 2014;”,

(ii) “environmental impact assessment” (as inserted by the European Communities (Environmental Impact Assessment) (Agriculture) (Amendment) Regulations 2013) the following:

“ ‘environmental impact assessment’ means has the same meaning as in the EIA Directive”,

(iii) “EIS” (as substituted by the European Communities (Environmental Impact Assessment) (Agriculture) (Amendment) Regulations 2013) the following:

“‘EIS’ means “a report prepared by competent experts, submitted by the applicant that complies with the

¹OJ L26, 28.1.2012, p.1

²OJ L124, 25.4.2014, p.1

requirements of Article 5.1 of the EIA Directive and is referred to in the EIA Directive as the environmental impact assessment report;”,

(b) by substituting Regulation 7 for the following:

“7. (1) Subject to Regulation 9, a person who wishes to undertake an activity shall submit an application to the Minister for a screening decision.

(2) Application under paragraph (1) shall contain-

- (a) the name and address of the applicant,
- (b) the location of the land, Land Parcel Identification System (LPIS) number assigned by the Minister, townland and county to which the application relates,
- (c) the nature and extent of the proposed activity including the anticipated outcomes of the activity and any features or measures to avoid or present significant adverse effects on the environment,
- (d) information on the characteristics of the activity and its likely significant effects on the environment, including at a minimum the information specified in Annex IIa to the Directive,
- (e) the name and address of the person who will perform the activity, and
- (f) such other information as the Minister considers necessary.

(3) The Minister may consult with any consultation body or make such enquiries as the Minister considers necessary for the purposes of deciding on the application.

(4) The Minister may take into account preliminary verifications or assessments of the effects on the environment carried out for the purposes of compliance with the law.

(5) The Minister may refuse an application if the application is incomplete in any material detail.”.

(c) by substituting Regulation 8(8) (as amended by the European Communities (Environmental Impact Assessment) (Agriculture) (Amendment) Regulations 2013) for the following:

“(8) The Minister shall make public a decision made under this Regulation and give the main reasons for the decision with reference to the criteria set out in Schedule 2.

(9) The Minister shall endeavour to make a decision within 90 days of receipt of the last documentation from the applicant and where that is not possible for the Minister to issue the decision within 90 days the Minister shall contact the applicant and advise him or her of the reason for the delay and the expected date for the decision.”,

(d) by substituting Regulation 9(2)(e)(i) for the following:

“(i) paragraph (1)(a), (b) or (d) it shall be accompanied by an EIS in accordance with Regulation 10 and details of registration of the application requiring environmental impact assessment with the Minister of Housing, Planning and Local Government,”,

(e) in Regulations 11 and 12 substitute “30 days” for “4 weeks” in each place it occurs,

(f) substituting Regulation 13(8)(b) (as amended by the European Communities (Environmental Impact Assessment) (Agriculture) (Amendment) Regulations 2013) for the following:

“(b) the proposed activity-

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

(ii) is likely to have adverse impacts on—

(I) population and human health,

(II) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC,

(III) land, soil, water, air and climate,

(IV) material assets, cultural heritage and the landscape;

(V) the interaction between the factors referred to in points (I) to (IV).”,

(g) substituting Regulation 14 (as amended by the European Communities (Environmental Impact Assessment) (Agriculture) (Amendment) Regulations 2013) for the following:

“14. (1) The Minister shall, as soon as possible, after making a decision under Regulation 13, notify in writing the applicant and any Member State that made observations or submissions under Regulation 12A and the main reasons and considerations on which the decision is based.

(2) The Minister shall publish the decision and the main reasons and considerations on which the decision is based in an electronic format that is available to the public.

(3) Where the Minister consents to the activity, the Minister shall publish details of any conditions that may be attached to the consent for environmental reasons and the main reasons for such condition.

(4) The Minister shall inform persons referred to in paragraph (1) and publish the procedures for seeking a judicial review of the decision under Regulation 15.”,

(h) substituting Schedule 3 for the following:

“Schedule 3

Regulation 10

(INFORMATION FOR THE ENVIRONMENTAL IMPACT STATEMENT)

1. Description of the activity, including in particular:

- (a) a description of the location of the activity;
- (b) a description of the physical characteristics of the whole activity, including, where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases;
- (c) a description of the main characteristics of the operational phase of the activity (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used;
- (d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation) and quantities and types of waste produced during the construction and operation phases.

2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the applicant, which are relevant to the proposed activity and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

3. A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the project as far as natural changes

from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.

4. A description of the factors specified in Regulation 13(8)(b)(ii) likely to be significantly affected by the project: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.

5. A description of the likely significant effects of the activity on the environment resulting from, inter alia:

- (a) the construction and existence of the activity, including, where relevant, demolition works;
- (b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;
- (c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste;
- (d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters);
- (e) the cumulation of effects with other existing and approved projects or activities, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;
- (f) the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change;
- (g) the technologies and the substances used.

The description of the likely significant effects on the factors specified in Regulation 13(8)(b)(ii) should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the project. This description should take into account the environmental protection objectives established at Union or Member State level which are relevant to the activity.

6. A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

7. A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis). That description should explain the extent, to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.

8. A description of the expected significant adverse effects of the project on the environment deriving from the vulnerability of the activity to risks of major accidents and/or disasters which are relevant to the project concerned. Relevant information available and obtained through risk assessments pursuant to Union legislation such as Directive 2012/18/EU of the European Parliament and of the Council³ or Council Directive 2009/71/Euratom⁴ or relevant assessments carried out pursuant to national legislation may be used for this purpose provided that the requirements of these Regulations are met. Where appropriate, this description should include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

9. A non-technical summary of the information provided under points 1 to 8.

10. A reference list detailing the sources used for the descriptions and assessments included in the report.”.



Given under my Official Seal,
19 September 2017.

MICHAEL CREED,
Minister for Agriculture, Food and the Marine.

³OJ L 197, 24.7.2012, p. 1

⁴OJ L 172, 2.7.2009, p. 18

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