



STATUTORY INSTRUMENTS.

S.I. No. 468 of 2012



AQUACULTURE APPEALS (ENVIRONMENTAL IMPACT
ASSESSMENT) REGULATIONS 2012

AQUACULTURE APPEALS (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2012

I, SIMON COVENEY, Minister for Agriculture, Food and the Marine, in exercise of the powers conferred on me by section 60 of the Fisheries (Amendment) Act 1997 (No. 23 of 1997) and the Sea Fisheries, Foreshore and Dumping at Sea (Transfer of Department Administration and Ministerial Functions) Order 2007 (S.I. No. 707 of 2007) (as adapted by the Agriculture, Fisheries and Food (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 455 of 2011)) and for the purpose of giving effect to Council Directive No. 2011/92/EU 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 Aquaculture Appeals (Environmental Impact Assessment) Regulations 2012.

Interpretation.

2. (1) In these Regulations

“Application Regulations” means the Aquaculture (Licence Application) Regulations 1998 (S.I. No. 236 of 1998) as amended by the Aquaculture (Licence Application) (Amendment) Regulations 2010 (S.I. No. 280 of 2010), Aquaculture (Licence Application) (Amendment) (No. 2) Regulations 2010 (S.I. No. 369 of 2010) and Aquaculture (Licence Application) (Amendment) Regulations 2012 (S.I. No. 301 of 2012);

“Council Directive” means the Council Directive No. 2011/92/EU of 13 December 2011;

“environmental impact assessment” means an assessment, to include an examination, analysis and evaluation, carried out by the Board 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 Council Directive on the assessment of the effects of certain public and private projects on the environment, 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,
- (c) material assets and the cultural heritage, and

¹O.J. L 26, 28.1.2012 p.1

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 30th November, 2012.

- (d) the interaction between the factors mentioned in paragraphs (a), (b) and (c);

“environmental impact statement” means a statement of the environmental impacts which the proposed aquaculture will have or is likely to have on the environment and shall include the information specified in Annex IV of the Council Directive.

(2) A word or expression that is used in these Regulations and that is also used in the Council Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Council Directive.

3. (1) The Board shall, as part of its consideration of an appeal, in accordance with paragraph (2), ensure that before a decision is made aquaculture likely to have significant effects on the environment by virtue, inter alia, of its nature, size or location is subject to an environmental impact assessment.

(2) An environmental impact assessment shall be carried out by the Board in respect of an appeal of-

- (a) aquaculture of a class specified in Regulation 5(1)(i) and (ii) of the Application Regulations, or
- (b) aquaculture of a class specified in Annex II of the Council Directive which the Board determines would be likely to have significant effects on the environment.

(3) An environmental impact statement shall be submitted with all appeals (other than reviews where the Board is satisfied that there is no environmental impact for any proposed change) for aquaculture referred to in paragraph 2(a) and shall also be submitted where the Board determines that an application for aquaculture referred to in paragraph 2(b) would be likely to have significant effects on the environment.

(4) The Board shall, in deciding whether aquaculture referred to in paragraph 2(b) would be likely to have a significant effect on the environment, have regard to the criteria specified in Annex III to Council Directive.

(5) The Board shall require the production by the appellant of any additional or supplemental information that it considers necessary to enable it to make an assessment.

(6) The Board shall consider the content of the environmental impact statement (and any other material including maps or plans) submitted as part of the appeal and determine whether same adequately identifies, describes and assesses the direct and indirect effects of the proposed development. If the environmental impact statement (and other material) is inadequate, then the Board shall serve a notice (hereinafter ‘a request for further information’) which sets out the manner in which the information is inadequate and requires the appellant to submit further information to remedy these inadequacies.

(7) In carrying out its consideration and environmental impact assessment, the Board, in addition to submissions made under sections 40, 43, 44, 45, 46, 47 of the Fisheries (Amendment) Act 1997, matters it may have regard to or information received by means of an oral hearing under section 50 or report received under section 59, is obliged to have regard, inter alia, to the following matters:

- (a) the particulars submitted with the application including the environmental impact statement and any other material including plans, charts, maps or drawings,
- (b) any additional material submitted in response to a notice for further information, if any, pursuant to paragraph 6,
- (c) any submissions or observations validly made in relation to the effects on the environment of the proposed development including those made by bodies specified in Regulation 10(1) of the Aquaculture Regulations or members of the public,
- (d) the views, if any, furnished by other Member States.

(8) In the event that the Board decides to grant a licence, then the Board may attach such conditions to the grant as it considers necessary, to avoid, reduce and, if possible, offset the major adverse effects (if any) of the proposed aquaculture.

(9) In carrying out its consideration and environmental impact assessment, the Board may have regard to and adopt in whole or in part, any reports prepared by itself or by consultants, experts or other advisors.

(10) When a decision to grant or refuse a licence has been taken, the Board, in addition to the matters prescribed in section 61, shall inform the applicant and the public thereof and shall make the following information available to the applicant and the public:

- (a) the content of the decision and any conditions attached thereto,
- (b) the Board's evaluation of the project's direct and indirect effects on the factors set out in paragraphs (a) to (c) of the definition of environmental impact assessment and the interaction between those factors,
- (c) having examined any submission or observation made to the Board—
 - (i) the main reasons and considerations on which the decision is based, and
 - (ii) the main reasons and considerations for the attachment of any conditions, including reasons and considerations arising from or related to submissions or observations made by a member of the public,

- (d) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects,
- (e) the reports referred to in paragraph (9),
- (f) information for the public on the procedures available to review the substantive and procedural legality of the decision, and
- (g) the views, if any, furnished by other Member States.



Given under my Official Seal,
23 November 2012.

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

EXPLANATORY NOTE

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

These Regulations have the purpose of giving effect to the provisions of Council Directive No. 2011/92/EU of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment.

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PUBLISHED BY THE STATIONERY OFFICE
To be purchased directly from the
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€2.54

