



STATUTORY INSTRUMENTS.

S.I. No. 419 of 2022



PLANNING AND DEVELOPMENT (AMENDMENT) REGULATIONS
2022

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I, PETER BURKE, Minister of State at the Department of Housing, Local Government and Heritage, in exercise of the powers conferred on me by paragraph (b) of subsection (5) of section 174 and section 262 of the Planning and Development Act 2000 (No. 30 of 2000) (as adapted by the Housing, Planning and Local Government (Alteration of Name of Department and Title of Minister) Order 2020 (S.I. No. 408 of 2020)) and by the Housing, Local Government and Heritage (Delegation of Ministerial Functions) (No. 2) Order 2020 (S.I. 559 of 2020), hereby make the following regulations:

Citation

1. (1) These Regulations may be cited as the Planning and Development (Amendment) Regulations 2022.

(2) The collective citation “Planning and Development Regulations 2001 to 2022” includes these Regulations.

Definition

2. In these Regulations “Principal Regulations” means the Planning and Development Regulations 2001 (S.I. No. 600 of 2001).

Amendment of Article 132 of the Principal Regulations

3. Article 132 of the Principal Regulations is substituted by the following article:

“Public notice of information received pursuant to request under section 174(4) of Act.

132.

(1) In this article, “nominated planning authority” means a planning authority nominated in accordance with sub-article (4)(a).

(2) Where, in response to a request under section 174(4) of the Act, the Minister receives information from a transboundary State in relation to development in such State, or where the Minister otherwise receives information from a transboundary State in respect of any development which is subject to the Council Directive or Transboundary Convention and which is likely to have significant effects on the environment, he or she shall, as soon as may be following receipt of such information, agree with the transboundary State a reasonable consultation period (which shall not be less than 30 days), which consultation period must conclude before development consent is given. Members of the public

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 23rd August, 2022.*

in this State may make submissions or observations in writing to the relevant competent authority in the transboundary State concerned during the consultation period.

(3) Where a planning authority receives information directly from a transboundary State in respect of any development which is subject to the Council Directive or Transboundary Convention and which is likely to have significant effects on the environment it shall as soon as may be following receipt of information, notify the Minister.

(4) As soon as may be following the Minister receiving information from a transboundary State, the Minister shall:

- (a) nominate one or more planning authorities to carry out the steps in sub article (5) and send a copy of the information referred to in sub-article (2) to any such nominated planning authority,
- and
- (b) provide the nominated planning authority or authorities with a list of all other planning authorities likely to be affected by the proposed development.

(5) Where a nominated planning authority receives information under sub-article (4)(a) or has received information in accordance with sub article (3) it shall as soon as may be following receipt of information:

- (a) publish a notice –
 - (i) in one or more national newspapers or in one or more approved newspapers as appropriate, except where directed by the Minister, and
 - (ii) on the planning authority’s website,
- (b) give notice of having received the information in accordance with sub-article 2, and include the notice published in accordance with sub-article (5)(a)(i), to –
 - (i) the bodies referred to in article 28, as appropriate, and
 - (ii) notwithstanding article 28(1)(d), all planning authorities listed in accordance with article (4)(b),
- (c) publish on its website –
 - (i) the URL, if known, to the application for development consent on the website of the relevant competent authority in the transboundary State concerned where relevant information can be found,
 - (ii) the information received from the transboundary State, and
 - (iii) the notice published in accordance with sub-article (5)(a).

(6) A notice referred to in sub-article (5) shall state:

- (a) that information has been received in relation to the proposed development in such transboundary State,
- (b) the URL, if known, to the application for development consent on the website of the relevant competent authority in the transboundary State concerned, or the URL to the nominated planning authority's website where information received from the transboundary State is available for inspection,
- (c) the nature of the information received,
- (d) that the proposed development is subject to an environmental impact assessment procedure and has potential transboundary effects,
- (e) the nature of possible decision, or where there is one, the draft decision,
- (f) that the information is available for inspection, or purchase at a fee not exceeding the reasonable cost of making a copy, during office hours at the offices of the planning authority, and
- (g) that a submission or observation on the information received may be made in writing to the relevant competent authority in the Transboundary State concerned within the period determined by the Minister in accordance with sub-article (2).

(7) The nominated planning authority shall, as soon as possible after publication of the notice under sub-article (5), send a copy of that notice to the Minister.

(8) The Minister shall make a notice received under sub-article (7) available on the website of his/her Department as soon as practicable after receipt of such notice.

(9) A planning authority shall make a notice received under sub-article (5)(b)(ii) available on its website as soon as practicable after receipt of such notice.

(10) Where the Minister receives information from a transboundary State in relation to a decision to grant or refuse a development to which this Part applies, the Minister shall, as soon as may be following receipt of such information, send such information to the nominated planning authority, and place such information on the website of his/her Department.

(11) The nominated planning authority shall, as soon as may be after receipt of the information referred to in sub-article (10), or where received directly from a transboundary State,

- (a) publish a notice –
 - (i) in one or more national newspapers or in one or more approved newspaper as appropriate, except where directed by the Minister, and

- (ii) on the authority's website,
- (b) give notice of having received the information to all planning authorities listed in accordance with sub-article (4)(b) , and where received directly from a transboundary State give notice to the Minister
and
- (c) publish on its website –
 - (i) the URL, if known, to the application for development consent on the website of the relevant competent authority in the transboundary State concerned, and
 - (ii) place on its website for inspection the information received by the nominated planning authority from the transboundary State

(12) A notice referred to in sub-article (11) shall state:

- (a) that it has received information on a decision taken by a transboundary State,
- (b) the nature of the decision,
- (c) that the information is available for inspection or purchase at a fee not exceeding the reasonable cost of making a copy during office hours at the offices of the nominated planning authority, and
- (d) the URL, if known, to where the information may be inspected on the website of the relevant competent authority in the transboundary State concerned, or the URL to the nominated planning authority's website where information received from the transboundary State is available for inspection pursuant to sub-article (11).

(13) A planning authority shall make a notice received under sub-article (11) available on the planning authority's website as soon as practicable after receipt of such notice.”

GIVEN under my hand,
17 August 2022

PETER BURKE,
Minister of State at the Department of Housing, Local Government
and Heritage

EXPLANATORY NOTE

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

The State's obligations under article 7 of Directive 2011/92/EU (the EIA Directive), as amended by Directive 2014/52/EU, and under the terms of the UNECE Convention on Environmental Impact Assessment in a Transboundary Context (the Espoo Convention) require transboundary consultation on certain developments that may have a transboundary environmental impact.

These regulations seek to streamline the public participation element of transboundary consultations by allowing members of the public in this State to send submissions directly to the competent authority in a transboundary State when public consultation is being held on a proposed development in that State. The regulations also provide for the Minister to nominate a planning authority in this State to co-ordinate such transboundary consultations in certain circumstances.

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