

**S.I. No. 403/2012 — European Union (Environmental Impact Assessment) (Gas) Regulations 2012.**

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 26th October, 2012.*

I, PAT RABBITTE, Minister for Communications, Energy and Natural Resources, 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 2011/92/EU of the European Parliament and of the Council of 13 December 2011<sup>1</sup>, hereby make the following:

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

2. The following section is inserted after section 40A (inserted by Regulation 20 of the European Communities (Environmental Impact Assessment) Regulations 1989 ( S.I. No. 349 of 1989 )) of the Gas Act 1976 (No. 30 of 1976):

*“Environmental Impact Assessment.*

40B.(1)(a) In this section—

‘environmental impact assessment’ means an assessment, to include an examination, analysis and evaluation, carried out by the Commission or the Minister in accordance with this section 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 Directive, the direct and indirect effects of a proposed development on the following factors (“environmental factors”) namely—

- (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 between the factors mentioned in subparagraphs (i), (ii) and (iii);

‘Directive’ means Directive 2011/92/EU of the European Parliament and of the Council.

(b) A word or expression that is used in this section and that is also used in the Directive has, unless the context otherwise requires, the same meaning in this Act as it has in the Directive.

(2) The Commission or the Minister shall, as part of the consideration of the application for consent made by the Board or another person, in accordance with subsection (3) ensure that before consent is given projects likely to have significant effects on the environment by virtue, *inter alia*, of their nature, size or location are made subject to an environmental impact assessment.

(3) An environmental impact assessment shall be carried out by the Commission or the Minister in respect of an application for consent for—

(a) development of a class specified in Parts I and II of the First Schedule to the European Communities (Environmental Impact Assessment) Regulations 1989 ( S.I. No. 349 of 1989 ) which exceeds a quantity, area or other limit specified in that Schedule, or

(b) development of a class specified in Part II of that Schedule which does not exceed a quantity, area or other limit specified in that Part but which the Commission or the Minister, as the case may be, determines would be likely to have significant effects on the environment.

(4) The Commission or the Minister, as the case may be, shall consider the content of the environmental impact statement (and any other material including maps or plans) submitted as part of the application 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 Commission or the Minister, as the case may be, shall serve a notice requesting further information setting out the manner in which the information is

inadequate and requiring the applicant to submit further information to remedy these inadequacies.

(5) In carrying out the consideration and environmental impact assessment of the application, the Commission or the Minister, as the case may be, shall have regard to the following matters:

(a) the particulars submitted with the application for consent made by the Board or another person including the environmental impact statement 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 subsections (1) and (5)(b) of section 40A,

(c) any submissions or observations validly made in relation to the effects on the environment of the proposed development including those made by other consent authorities, statutory consultees or members of the public, and

(d) any views of another Member State following consultation under subsection (7)(a) of section 40A.

(6) In the event that the Commission or the Minister decides to grant an application for consent, then the Commission or the Minister, as the case may be, may attach such conditions to the grant as the Commission or the Minister, as the case may be, considers necessary to avoid, reduce and, if possible, offset the major adverse effects (if any) of the proposed development.

(7) In carrying out the consideration and the environmental impact assessment of the application, the Commission or the Minister may have regard to, and adopt in whole or in part, any reports prepared by officers of the Minister or the Commission, as the case may be, or by consultants, experts or other advisors.

(8) When a decision to grant or refuse consent has been taken, the Commission or the Minister, as the case may be, shall inform the applicant and the public of the decision and shall make available the following information to the applicant and the public, that is to say—

(a) the content of the decision and any conditions attached to it,

(b) the Commission's or the Minister's, as the case may be, evaluation of the project's direct and indirect effects on the environmental factors set out and the interaction between those factors,

(c) having examined any submission or observation made to the Minister or the Commission, as the case may be, the main reasons and considerations—

(i) on which the decision is based, and

(ii) for the attachment of any conditions,

including reasons and considerations arising from or related to submissions or observations made by members 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 subsection (7),

(f) information for the public on the procedures available to review the substantive and procedural legality of the decision, and

(g) any views of another Member State following consultation under subsection (7)(a) of section 40A.”.

3. Regulation 2 of the Gas (Interim) (Regulation) Act 2002 (Criteria for Determination of Consents) Regulations 2002 ( S.I. No. 264 of 2002 ) is amended by substituting for paragraph (c) the following:

“(c) the applicant has complied with the requirements of sections 40A and 40B of the Gas Act 1976 (No. 30 of 1976) in relation to the proposed construction of the pipeline to which the

application relates.”.



GIVEN under my Official Seal,

19 October 2012.

PAT RABBITTE,

Minister for Communications, Energy and Natural Resources.

1 O.J. L 26, 28.1.2012 p.1