

S.I. No. 442/2012 — European Communities (Forest Consent and Assessment) (Amendment) Regulations 2012.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 13th November, 2012.*

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 forestry, hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Forest Consent and Assessment) (Amendment) Regulations 2012.

2. The European Communities (Forest Consent and Assessment) Regulations 2010 (S.I. No. 558 of 2010) are amended—

(a) in Regulation 2(1)—

(i) in the definition of “consultation body”, by inserting after paragraph (f) the following:
“(g) the National Roads Authority;”,

(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 the definition of “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,

(c) material assets and the cultural heritage, and

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

and

(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 1;”,

(b) in Regulation 6(1), by substituting for paragraph (h) the following:

“(h) the requirements of these Regulations, including, where appropriate, an environmental impact assessment under Regulation 6A;”,

(c) by inserting after Regulation 6 the following:

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

6A.(1) The Minister shall, as part of his or her consideration of the application involving an environmental impact assessment, in accordance with paragraph (2), ensure that before approval of the application 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.

(2) The Minister shall carry out an environment impact assessment in respect of an

application for approval for—

(a) a class (or classes) of development prescribed by regulations under section 176 of the Planning and Development Act 2000 that equals or exceeds a quantity, area or other limit prescribed by those regulations, or

(b) a class (or classes) of development prescribed by regulations under section 176 of the Planning and Development Act 2000 that does not exceed a quantity, area or other limit prescribed under those regulations, but which the Minister determines would be likely to have significant effects on the environment.

(3) A person submitting an application in respect of development referred to in paragraph (2)(a) or where the Minister determines that an application referred to in paragraph (2)(b) would be likely to have significant effects on the environment shall submit an EIS with his or her application.

(4) 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 (2).

(5) The Minister shall consider the content of the EIS (and any other material including maps or plans) submitted as part of the application and determine whether these items adequately identify, describe and assess the direct and indirect effects of the proposed development. If the EIS (or other material) 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.

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

(i) the particulars submitted with the application for approval including the EIS and any other material (including maps and plans),

(ii) any additional material submitted in response to a request for further information, if any, pursuant to paragraphs (4) and (5),

(iii) any submissions or observations made in relation to the effects on the environment of the proposed development including those made by consultation bodies or public, and

(iv) the views, if any, furnished by other Member States pursuant to Part 5.

(7) The Minister, in carrying out an environmental impact 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.”,

(d) in Regulation 7(1), by substituting for paragraphs (c) and (d) the following:

“(c) in relation to applications to which Regulation 6A applies, 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) in relation to applications to which Regulation 6A applies, reports referred to in Regulation 6A(7) 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, and

(f) the procedure for seeking a review of the decision under Regulation 8.”,

(e) in Regulation 8(1), by substituting “Article 11(1)” for “Article 10a”,

(f) in Regulation 12(1), by substituting “Subject to Regulations 6A, 13 and 14” for “Subject to Regulations 13 and 14”,

(g) in Regulation 13, by substituting “Subject to Regulation 6A, where” for “Where”, and

(h) by substituting the following for Regulation 20:

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



GIVEN under my Official Seal,

2 November 2012.

SIMON COVENEY,

Minister for Agriculture, Food and the Marine.

1 OJ L26, 28.1.2012, p.1.