



STATUTORY INSTRUMENTS.

**S.I. No. 470 of 2012**



EUROPEAN UNION (ENVIRONMENTAL IMPACT ASSESSMENT)  
FLOOD RISK) REGULATIONS 2012

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I, BRENDAN HOWLIN, Minister for Public Expenditure and Reform, 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 2011<sup>1</sup> 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 European Union (Environmental Impact Assessment) (Flood Risk) Regulations 2012.

*Interpretation.*

2. In these Regulations “Principal Regulations” means the European Communities (Assessment and Management of Flood Risks) Regulations 2010 (S.I. No. 122 of 2010).

*Amendment of the Principal Regulations.*

3. Regulation 2(4) of the Principal Regulations is amended:

(a) by inserting the following definition after the definition of “the Directive”:

“EIA Directive” means Council Directive No. 2011/92/EU on the assessment of the effects of certain public and private projects on the environment,

(b) by inserting the following definition after the definition of “embankment”:

"environmental impact assessment" means an assessment, to include an examination, analysis and evaluation, carried out by the Minister in accordance with these Regulations 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 flood risk management scheme on the following:

(a) human beings, flora and fauna,

(b) soil, water, air, climate and the landscape,

<sup>1</sup>O.J. L26, 28.1.2012 p.1.

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 4th December, 2012.*

- (c) material assets and the cultural heritage, and
- (d) the interaction between the factors mentioned in paragraphs (a), (b) and (c),

4. The following Regulation is inserted after Regulation 2 of the Principal Regulations:

“2A. Subject to these Regulations, a word or expression that is used in these Regulations and that is also used in the EIA Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the EIA Directive.”

5. Regulation 25 of the Principal Regulations is amended by inserting the following paragraph after paragraph (3):

“(3A) (a) The Minister shall, as part of his consideration of a proposed flood risk management scheme, in accordance with subparagraph (b) of this paragraph, ensure that before approval is given a scheme likely to have significant effects on the environment by virtue, inter alia of its nature, size or location is made subject to an environmental impact assessment.

(b) An environmental impact assessment shall be carried out by the Minister in respect of an application for approval for a flood risk management scheme which would involve the execution of flood risk management works of a class or classes specified in paragraphs (4), (5) and (6) of this Regulation.

(c) In carrying out his consideration and his environmental impact assessment, the Minister is obliged to have regard to the following matters:

(i) the particulars submitted with the application for approval of a proposed flood risk management scheme including the environmental impact statement 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 Regulation 29(4)(a),

(iii) any submissions or observations validly made in relation to the effects on the environment of the proposed flood risk management scheme including those made by other consent authorities, prescribed bodies or members of the public.

- (d) In the event that the Minister makes an order approving a flood risk management scheme, then the Minister may attach such conditions to the approval as he considers necessary, to avoid, reduce and, if possible, offset the major adverse effects (if any) of the proposed development.
- (e) In carrying out his consideration and his environmental impact assessment, the Minister may have regard to, and adopt in whole or in part, any reports prepared by his officials or by consultants, experts or other advisors.
- (f) When a decision is made to make an order approving a flood risk management scheme or refuse to approve such a scheme, the Minister shall inform the Commissioners and the public thereof and shall make the following information available to the Commissioners and the public, in addition to that specified in Regulation 29(3)(b) of these Regulations:
  - (i) the content of the decision and any conditions attached thereto,
  - (ii) the Minister'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,
  - (iii) the reports referred to in subparagraph (e) of this paragraph, and
  - (iv) information for the public on the procedures available to review the substantive and procedural legality of the decision."

6. Regulation 29(4) of the Principal Regulations is amended by the substitution for subparagraph (a) of the following subparagraph:

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

7. In the Principal Regulations the term "assessment" shall be substituted by the term "statement" in Regulation 27(1)(b) on the second occasion it appears, in Regulation 27(4)(b) on the third occasion it appears and in Regulation 29(3)(a)(ii) where it appears.

8. The term "environmental impact assessment" shall be substituted by the term "environmental impact statement" wherever it appears in Regulations 25 to 37, inclusive, of the Principal Regulations save for where it appears in the title of a Regulation or in Regulation 37(1)(h) on the first two occasions the term appears.

9. In Regulation 37(1)(h) of the Principal Regulations the term "3A," shall be inserted before the numbers "4, 5, 6, 7".

10. In the Fourth Schedule paragraph 4 of Section I of the Principal Regulations the title "Council Directive 85/337/EEC of 27 June 1985" shall be substituted with the title "Council Directive 2011/92/EU".



Given under my Official Seal,  
25 October 2012.

BRENDAN HOWLIN,  
Minister for Public Expenditure and Reform.

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