

S.I. No. 84/1994 — European Communities (Environmental Impact Assessment) (Amendment) Regulations, 1994.

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EUROPEAN COMMUNITIES (ENVIRONMENTAL IMPACT ASSESSMENT)
(AMENDMENT) REGULATIONS, 1994.

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In exercise of the powers conferred on the Minister for the Environment by section 3 of the European Communities Act, 1972 (No. 27 of 1972) and for the purpose of giving effect to the Council Directive of 27 June, 1985 (No. 85/337/EEC, O.J. No. L175/40, 5 July, 1985), which said powers are delegated to me by the Environment (Delegation of Ministerial Functions) Order, 1993 (S.I. No. 127 of 1993), I, JOHN BROWNE, Minister of State at the Department of the Environment, hereby make the following Regulations:—

PART I PRELIMINARY AND GENERAL

Citation.

1. (1) These Regulations may be cited as the European Communities (Environmental Impact Assessment) (Amendment) Regulations, 1994.

(2) These Regulations and the European Communities (Environmental Impact Assessment) Regulations, 1989 (S.I. No. 349 of 1989) shall be construed as one and may be collectively cited as the European Communities (Environmental Impact Assessment) Regulations, 1989 and 1994.

Commencement.

2. (1) These Regulations, other than Articles 6, 7, 10 for the purpose of revoking Article

23 of the 1989 Regulations, and 13 shall come into operation on the 13th day of April, 1994.

(2) Articles 6, 7 and 13 shall come into operation on the 16th day of May, 1994.

(3) Article 10, for the purpose of revoking Article 23 of the 1989 Regulations, shall come into operation on the 15th day of June, 1994.

Interpretation.

3. In these Regulations, save where the context otherwise requires:—

(*a*) any reference to a Part which is not otherwise identified is a reference to a Part of these Regulations,

(*b*) a reference to any enactment shall be construed as a reference to that enactment as amended or adapted by any subsequent enactment, including these Regulations.

PART II AMENDMENT OF LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) ACTS, 1963 TO 1993 AND EUROPEAN COMMUNITIES (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS, 1989

Definitions for Part II.

4. In this Part:—

"the Act of 1963" means the Local Government (Planning and Development) Act, 1963 (No. 28 of 1963);

"the Act of 1992" means the Local Government (Planning and Development) Act, 1992 (No. 14 of 1992);

"the 1989 Regulations" mean the European Communities (Environmental Impact Assessment) Regulations, 1989.

Amendment of section 25 of the Act of 1963.

5. Section 25 of the Act of 1963 is hereby amended by:—

(a) the substitution for subsections (2) (cc) (v) and (vi) (inserted by Article 7 (a) of the 1989 Regulations) thereof of the following:

"(v) the making of submissions or observations to the planning authority by persons other than the applicant in relation to development in respect of which the authority has received an environmental impact statement,

(vi) the making available for purchase of copies of environmental impact statements or extracts from such statements,";

(b) the substitution for subsection (3) (c) (inserted by Article 7 (b) of the 1989 Regulations) thereof of the following:

"(c) The Minister shall, as soon as may be—

(i) notify the planning authority concerned of his decision on any request made to him under paragraph (a) of this subsection, and of any requirements applied under paragraph (b) of this subsection, and

(ii) where the proposed development to which the request relates comprises or is for the purposes of an activity in relation to which a licence under Part IV of the Environmental Protection Agency Act, 1992 (No. 7 of 1992) is required, notify the Environmental Protection Agency of his decision on the request, and of any requirements applied under paragraph (b) of this subsection which relate to the risk of environmental pollution from the activity.";

(c) the substitution for subsection (4) (a) (inserted by Article 7 (b) of the 1989 Regulations) thereof of the following:

"(a) A person who makes a request to the Minister for an exemption under subsection (3) of this section shall, as soon as may be—

(i) inform the planning authority concerned of the making of the request and the date on which it was made, and

(ii) where the proposed development comprises or is for the purposes of an activity in relation to which a licence under Part IV of the Environmental Protection Agency Act, 1992 (No. 7 of 1992) is required, notify the Environmental Protection Agency of the making of the request and the date on which it was made.".

Amendment of section 26 of Act of 1963.

6. Section 26 of the Act of 1963 is hereby amended by:—

(a) the substitution for subsection (1A) (inserted by Article 8 (a) of the 1989 Regulations) thereof of the following subsection:

"(1A) (a) Without prejudice to subsection (1) of this section, and subject to paragraph (b) of this subsection, a planning authority shall, in dealing with an application for permission for the development of land in respect of which an environmental impact statement was submitted to them in accordance with a requirement of or under regulations under section 25 (as

amended by the European Communities (Environmental Impact Assessment) Regulations, 1989 and 1994) of this Act, have regard to—

(i) the said statement,

(ii) any supplementary information relating to the said statement furnished to them by the applicant in accordance with a requirement under regulations under the said section 25,

(iii) any submissions or observations concerning the effects on the environment of the proposed development made to them by persons other than the applicant in accordance with regulations under the said section 25, and

(iv) where appropriate, the views of other Member States of the European Communities in relation to the effects on the environment of the proposed development.

(*b*) Notwithstanding paragraph (*a*) of this subsection, a planning authority shall, in dealing with an application for permission for the development of land where the development comprises or is for the purposes of an activity to which a licence under Part IV of the Environmental Protection Agency Act, 1992 (No. 7 of 1992) is required, have regard to the matters referred to in the said paragraph

(*a*) only insofar as those matters do not relate to the risk of environmental pollution from the activity.";

(*b*) the insertion after subsection (5) (*d*) (inserted by section 3 (*a*) of the Act of 1992) thereof of the following:

"(*dd*) Notwithstanding paragraph (*d*) of this subsection, the Board shall, in determining on appeal an application for permission for the development of land where the development comprises or is for the purposes of an activity in relation to which a licence under Part IV of the Environmental Protection Agency Act, 1992 (No. 7 of 1992) is required, have regard to the matters referred to in the said paragraph (*d*) only insofar as those matters do not relate to the risk of environmental pollution from the activity.".

Amendment of section 41 of Act of 1963.

7. Section 41 of the Act of 1963 is hereby amended by the insertion after subsection (1) (*aa*) (inserted by Article 9 of the 1989 Regulations) thereof of the following:—

"(*aaa*) where the development forming the subject of an application in respect of which an environmental impact statement was submitted comprises or is for the purposes of an activity in relation to which a licence under Part IV of the Environmental Protection Agency Act, 1992 (No. 7 of 1992) is required, an indication of this fact,".

Amendment of section 78 of Act of 1963.

8. Section 78 of the Act of 1963 is hereby amended by the substitution for subsection (2) (*g*) (inserted by Article 10 of the 1989 Regulations) thereof of the following:—

"(g) require the availability for public inspection of environmental impact statements, the availability for purchase of copies of such statements or extracts therefrom and the furnishing of copies of such statements to the Minister and to any other specified persons,".

Amendment of section 18 of Act of 1992.

9. Section 18 of the Act of 1992 is hereby amended by the substitution for subsection (2) (b) (iii) thereof of the following:—

"(iii) to require the submission to the Board by the applicant of additional information in relation to the development to which the appeal relates, and".

Revocations.

10. Articles 12, 15 and 23 of the 1989 Regulations are hereby revoked.

PART III AMENDMENT OF THE ENVIRONMENTAL PROTECTION AGENCY ACT, 1992

Definitions for Part III.

11. In this Part, "the Act of 1992" means the Environmental Protection Agency Act, 1992 (No. 7 of 1992).

Amendment of section 3 of Act of 1992.

12. Section 3 of the Act of 1992, is hereby amended by the insertion in subsection (1) thereof, after the definition of "enactment", of the following definition:—

"environmental impact statement" means a statement prepared in accordance with a requirement of or under regulations under section 25 (as amended by the European Communities (Environmental Impact Assessment) Regulations, 1989 and 1994) of the Act of 1963 of the effects, if any, which proposed development, if carried out, would have on the environment;".

Amendment of section 83 of Act of 1992.

13. Section 83 of the Act of 1992 is hereby amended by the insertion after subsection (2) (c) thereof of the following:—

"(cc) (i) the environmental impact statement (if any) submitted with the application,

(ii) any submissions or observations made to the Agency in relation to the environmental impact statement,

(iii) any further information or particulars submitted in relation to the environmental impact statement in compliance with a notice given under regulations under section 87, and

(iv) where appropriate, the views of other Member States of the European Communities in relation to the effects on the environment of the proposed activity,

insofar as the statement, submissions, views, observations, information or particulars relate to the risk of environmental pollution from the activity,".

Amendment of section 87 of Act of 1992.

14. Section 87 of the Act of 1992 is hereby amended by:—

(a) the substitution for subsection (2) (d) and (e) thereof of the following:

"(d) specifying the submissions, plans, documents, and other information and particulars, including environmental impact statements, to be forwarded to the Agency or other specified person by applicants, licensees, objectors, or other persons within such periods as may be specified,

(e) requiring applicants, licensees, objectors or other persons to furnish to the Agency or any other specified person, within such period as may be specified, such additional information or particulars relating to applications, including environmental impact statements, or reviews as the Agency may request,";

(b) the insertion after subsection (2) (f) (ii) thereof of the following:

"(iii) to such period as the Agency may consider appropriate or as may be requested by the Minister in the case of an application for a licence for an activity which is likely to have significant effects on the environment in another Member State of the European Communities and in respect of which an environmental impact statement has been or will be submitted,

(iv) to two months after the day on which an exemption under section 25 (3) (inserted by the European Communities (Environmental Impact Assessment) Regulations, 1989 and 1994) of the Act of 1963 has been granted by the Minister,";

(c) the substitution for subsection (2) (h) thereof of the following:

"(h) procedures to be followed by the Agency in the processing of applications or reviews, including consultation procedures in relation to an environmental impact statement whether or not an oral hearing is held, and

the times within which such procedures shall be carried out,".

Dated this 13th day of April, 1994.

JOHN BROWNE,

Minister of State at the Department of the
Environment.

EXPLANATORY NOTE.

These regulations provide for the amendment of the Local Government (Planning and Development) Acts, 1963 to 1993; the European Communities (Environmental Impact Assessment) Regulations, 1989 and the Environmental Protection Agency Act, 1992 , for the purpose of giving effect to Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment. The amendments arise principally from the coming into operation of integrated licensing function of the Environmental Protection Agency which includes a role in relation to environmental impact statements for licensable activities concerned.

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