

S.I. No. 450/2000 — European Communities (Environmental Impact Assessment) (Amendment) Regulations, 2000.

STATUTORY INSTRUMENTS.

S.I. No. 450 of 2000.

EUROPEAN COMMUNITIES (ENVIRONMENTAL IMPACT ASSESSMENT)
(AMENDMENT) REGULATIONS, 2000.

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The Minister for the Environment and Local Government, in exercise of the powers conferred on him 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, OJ No. L175/40, 5 July 1985) as amended by the Council Directive of 3 March, 1997 (No. 97/11/EC, O.J. No. L73/5, 14 March, 1997), hereby makes the following Regulations:—

Citation.

1. (1) These Regulations may be cited as the European Communities (Environmental Impact Assessment) (Amendment) Regulations, 2000.

(2) These Regulations and the European Communities (Environmental Impact Assessment) Regulations, 1989 to 1999 shall be construed as one and may be collectively cited as the European Communities (Environmental Impact Assessment) Regulations, 1989 to 2000.

Commencement.

2. (1) These Regulations shall come into operation on 1 January, 2001.

(2) Where these Regulations provide for the amendment of an enactment, such enactment shall, notwithstanding any provision of the enactment as to commencement,

have effect on and from the coming into operation of these Regulations.

Interpretation.

3. (1) In these Regulations:—

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

“the Act of 1963” means the Local Government (Planning and Development) Act, 1993 (No. 12 of 1993) ;

“the Act of 2000” means the Planning and Development Act, 2000 (No. 30 of 2000) ;

“the 1989 Regulations” means the European Communities (Environmental Impact Assessment) Regulations, 1989 (S.I. No. 349 of 1989) ;

“the 1994 Regulations” means the European Communities (Environmental Impact Assessment) (Amendment) Regulations, 1994 (S.I. No. 84 of 1994) ;

“the 1998 Regulations” means the European Communities (Environmental Impact Assessment) (Amendment) Regulations, 1998 (S.I. No. 351 of 1998) ;

“the 1999 Regulations” means the European Communities (Environmental Impact Assessment) Regulations, 1999 (S.I. No. 93 of 1999).

(2) In these Regulations, save where the context otherwise requires, 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.

Amendment of
section 78 of Act of
1963.

4. Section 78 of the Act of 1963 is hereby amended by the substitution for subsection (2) (inserted by article 10 of the 1989 Regulations, as amended by article 8 of the 1994 Regulations and article 5 of the 1999 Regulations), subsection (3) (inserted by article 10 of the 1989 Regulations, as amended by article 5 of the 1998 Regulations and article 5 of the 1999 Regulations) and subsection (4) (as inserted by article 5 of the 1999 Regulations) of the following subsections:—

“(2) For the purposes of the Council Directive, regulations made in relation to any specified cases or classes of cases of development proposed to be carried out by or on behalf of local authorities who are planning authorities may—

(a) require the authority to prepare an environmental impact statement in respect of specified proposed development,

(b) empower the Board to require the authority to prepare an environmental impact statement in respect of other proposed development,

- (c) require the authority to have, in respect of proposed development for which an environmental impact statement is required to be prepared, the certification of the Board that the proposed development (or the proposed development as varied or modified by it) will not, in its opinion, have significant adverse effects on the environment, or will embody the best practicable means to prevent or limit such effects,
- (d) require the Board, before certifying proposed development, to have regard to—
 - (i) an environmental impact statement prepared in respect of that development,
 - (ii) any submissions or observations made to it in accordance with regulations under this subsection,
 - (iii) the report and any recommendations of the person conducting an oral hearing, if any, in accordance with regulations under this subsection or in accordance with subsection (5), and
 - (iv) the views of other Member States of the European Communities arising from consultation, if any, in accordance with regulations under this subsection,
- (e) enable the Board, in relation to the certification referred to in paragraph (c) of this subsection, to vary or modify a proposed development in respect of which certification is sought,
- (f) require the authority to give public notice in any specified form and manner, or to give notice to any specified persons, of applications for the certification referred to in paragraph (c) of this subsection,
- (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 Board and to any other specified persons,
- (h) require the authority to furnish to the Board further information in relation to proposed development in respect of which an environmental impact statement has been prepared,
- (i) provide for the making of submissions or observations to the Board in relation to the effects on the environment of proposed development in respect of which an environmental impact statement has been prepared,
- (j) provide for the holding of an oral hearing by the Board in relation to proposed development,
- (k) provide for consultation with other Member States of the European Communities in relation to proposed development,
- (l) require the Board to give notice of its decision in relation to proposed

development for which certification is sought in accordance with regulations under this subsection,

(*m*) require a planning authority, in dealing with an application by a local authority for permission under Part IV of this Act for development outside the functional area of that local authority, to have regard to any certification of the development by the Board under regulations in accordance with this subsection,

(*n*) provide for matters of procedure in relation to the making of a request for and the giving of a written opinion pursuant to subsection (4) of this section.

(3)(*a*) The Board may, subject to paragraph (*d*) of this subsection, by order, where it is satisfied that exceptional circumstances so warrant, grant an exemption in respect of proposed development from a requirement of regulations under subsection (2) of this section to prepare an environmental impact statement.

(*b*) The Board shall, in granting an exemption under paragraph (*a*) of this subsection, consider whether—

(*i*) the effects, if any, of the proposed development on the environment should be assessed in some other manner, and

(*ii*) the information collected in the course of such assessment should be made available to members of the public,

and it may apply such requirements regarding these matters as it considers necessary or appropriate.

(*c*) Notice of any exemption granted under paragraph (*a*) of this subsection, of the reasons for granting such exemption, and of any requirements applied under paragraph (*b*) of this subsection shall, as soon as may be, —

(*i*) be published in *Iris Oifigiúil* and in at least one daily newspaper published in the State, and

(*ii*) be given, together with a copy of the information, if any, made available to members of the public in accordance with the said paragraph (*b*), to the Commission of the European Communities.

(*d*) An exemption shall not be granted under paragraph (*a*) of this subsection in respect of proposed development if another Member State of the European Communities, having been informed about the proposed development and its likely effects on the environment in that State, has indicated that it intends to furnish views on the said effects.

(4)(*a*) If a local authority, before preparing an environmental impact statement in accordance with regulations made under subsection (2) of this section, so requests, the Board shall give a written opinion on the information to be contained in such statement.

(b) The giving of a written opinion in accordance with paragraph (a) of this subsection shall not prejudice the exercise by the Board of its powers pursuant to the Local Government (Planning and Development) Acts, 1963 to 1999, or any regulations made thereunder, to require the local authority which made the request to furnish further information in relation to the application for certification of the proposed development concerned.

(5) A person conducting an oral hearing, in accordance with section 218 of the Act of 2000, in relation to the compulsory purchase of land which relates wholly or partly to a proposed development for which an environmental impact statement has been prepared, pursuant to regulations under this section, shall be entitled to hear evidence in relation to the effects on the environment of the proposed development.

(6) Any application for certification in respect of proposed development made in accordance with the 1994 Regulations and not determined by 1 January, 2001, shall be transferred to the Board and the Board shall, in lieu of the Minister, determine the application in accordance with the regulations under this section.”.

Revocation.

5. Article 10 of the 1989 Regulations, as amended by Article 8 of the 1994 Regulations, Article 5 of the 1998 Regulations and Article 5 of the 1999 Regulations, and article 5 (d) of the 1999 Regulations are hereby revoked.

Oral hearing in respect of a proposed road development.

6. Notwithstanding section 51(8)(b) of the Roads Act, 1993 (No. 14 of 1993), the Board may, where it considers it necessary or expedient for the purposes of making a decision in respect of a proposed road development submitted to it under section 51 of the Roads Act, 1993 (as amended by section 215 of the Act of 2000), hold an oral hearing and shall, in addition to the requirements of subsection (5) of that section, consider the report and any recommendations of the person holding the oral hearing before making its decision in relation to the proposed road development.

GIVEN under the Official Seal of the Minister for the Environment and Local Government, this 20th day of December, 2000.

NOEL DEMPSEY,

Minister for the Environment and Local Government.

EXPLANATORY NOTE.

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

The purpose of these Regulations is to transfer the function of certifying environmental impact assessment of local authority own development from the Minister for the Environmental and Local Government to An Board Pleanála on 1 January 2001. The transfer of the certification function coincides with the transfer of the Minister's function in relation to the approval of compulsory purchases of land by local authorities

in accordance with sections 214 and 215 of the Planning and Development Act, 2000 .

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