

S.I. No. 93/1999 — European Communities (Environmental Impact Assessment) (Amendment) Regulations, 1999.

STATUTORY INSTRUMENTS.

S.I. No. 93 of 1999.

EUROPEAN COMMUNITIES (ENVIRONMENTAL IMPACT ASSESSMENT)
(AMENDMENT) REGULATIONS, 1999.

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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 3 March, 1997 (No. 97/11/EC, O.J. No. L73/5, 14 March, 1997), hereby makes the following regulations—

PART I

Preliminary and General

1. (1) These regulations may be cited as the European Communities (Environmental Impact Assessment) (Amendment) Regulations, 1999.

(2) These regulations, the European Communities (Environmental Impact Assessment) Regulations, 1989 (S.I. No. 349 of 1989), the European Communities (Environmental Impact Assessment) (Amendment) Regulations, 1994 (S.I. No. 84 of 1994), the European Communities (Environmental Impact Assessment) (Amendment) Regulations, 1996 (S.I. No. 101 of 1996), and the European Communities (Environmental Impact Assessment) (Amendment) Regulations, 1998 (S.I. No. 351 of 1998), shall be construed as one and may be collectively cited as the European Communities (Environmental Impact Assessment) Regulations, 1989 to 1999.

2. (1) These regulations shall come into operation on the 1st day of May, 1999.

(2) Notwithstanding sub-article (1), where an application for consent for development to which these regulations refer is made before the date of coming into operation of these regulations, the provisions of the appropriate enactment, before they were amended by these regulations, shall continue to apply to the said application.

(3) 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.

(4) In this article, “application for consent for development” means—

- (a) an application for planning permission or certification of development to be carried out by or on behalf of a local authority under the Planning Acts, 1963 to 1998;
- (b) an appeal to An Bord Pleanála under the Planning Acts, 1963 to 1998;
- (c) a relevant application under the Foreshore Act, 1933 ;
- (d) a drainage scheme submitted to the Minister for Finance under the Arterial Drainage Acts, 1945 and 1995;
- (e) an application for a harbour works order under the Harbours Act. 1946;
- (f) a plan for working of petroleum submitted to the Minister for the Marine and Natural Resources under the Petroleum and Other Minerals Development Act, 1960 ;
- (g) an application or a notice to the Minister for Public Enterprise relating to the construction of a pipeline under the Gas Act, 1976 ;
- (h) an application for approval of a proposed road development under the Roads Acts, 1993 and 1998;
- (i) an application for a light railway order under the Transport (Dublin Light Rail) Act, 1996 ;
- (j) a planning scheme submitted to the Minister for the Environment and Local Government under the Dublin Docklands Development Authority Act, 1997

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

“the Birds Directive” means Council Directive No. 79/409/EEC of 2 April, 1979, on the conservation of wild birds (O.J. No. L 103, 25 April, 1979);

“built-up area” means an existing city or town or an adjoining developed area;

“the European Communities (Environmental Impact Assessment) Regulations, 1989 to 1998” has the meaning assigned to it in the 1998 Regulations;

“the Habitats Directive” means Council Directive 92/43/EEC of 21 May, 1992, on the conservation of natural habitats and of wild fauna and flora (O.J. No. L 206, 22 July, 1992);

“the Planning Acts, 1963 to 1998” has the meaning assigned to it in the Local Government (Planning and Development) Act, 1998 (No. 9 of 1998) ;

“special area of conservation” has the meaning assigned to it in Regulation 2 of the European Communities (Natural Habitats) Regulations. 1997 (S.I. No. 94 of 1997);

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

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

(2) In these regulations save where the context otherwise requires—

- (a) any reference to a Part or a Schedule which is not otherwise identified is a reference to a Part of or Schedule to 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 the Planning Acts, 1963 to 1998, and the European Communities (Environmental Impact Assessment) Regulations, 1989 to 1998.

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

- (a) the addition after sub-paragraph (vii) of paragraph (cc) of subsection (2) thereof, as inserted by article 7 of the 1989 Regulations, of the following subparagraph—

“(viii) matters of procedure in relation to the making of a request for and the giving of a written opinion pursuant to subsection (6) of this section.”;

- (b) the substitution for paragraph (a) of subsection (3) thereof, as inserted by article 7 of the 1989 Regulations, of the following paragraph—

“(a) At the request of an applicant or of a person intending to apply for permission, the Minister may, subject to paragraph (e) of this subsection, by order, having afforded the planning authority concerned an opportunity to furnish observations on the request, and where he is satisfied that exceptional circumstances so warrant, grant in respect of proposed development an exemption from a requirement of or under regulations under this section to prepare an environmental impact statement.”;

- (c) the addition after paragraph (d) of subsection (3) thereof, as amended by article 3 of the 1998 Regulations, of the following paragraph—

“(e) 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.”;

- (d) the addition after subsection (5) thereof, as inserted by article 3 of the 1998 Regulations, of the following subsection—

“(6) (a) If an applicant or a person intending to apply for permission, before submitting an environmental impact statement in accordance with a requirement of or under regulations under this section, so requests, the relevant planning authority 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 planning authority concerned of its powers pursuant to the Planning Acts, 1963 to 1998, or any regulations made thereunder, to require the person who made the request to submit further information relative to the application concerned.”.

5. Section 78 of the Act of 1963 is hereby amended by—

- (a) the addition after paragraph (1) of subsection (2) thereof, as inserted by article 10 of the 1989 Regulations, of the following paragraph—

“(m) 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.”;

(b) the substitution for paragraph (a) of subsection (3) thereof, as inserted by article 10 of the 1989 Regulations, of the following paragraph—

“(a) The Minister may, subject to paragraph (d) of this subsection, by order, where he 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.”;

(c) the addition after paragraph (c) of subsection (3) thereof, as amended by article 5 of the 1998 Regulations, of the following paragraph—

“(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.”;

(d) the addition after subsection (3) thereof, as inserted by article 10 of the 1989 Regulations, of the following subsection—

“(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 Minister 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 Minister of his powers pursuant to the Planning Acts, 1963 to 1998, 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.”.

6. The Act of 1992 is hereby amended by the insertion, after section 7 thereof, of the following section—

“7A. (1) If an applicant, before submitting an environmental impact statement to the Board in accordance with a requirement of or under regulations under this Act, so requests, the Board shall give a written opinion on the information to be contained in such statement.

(2) The giving of a written opinion in accordance with paragraph (a) of this section shall not prejudice the exercise by the Board of its powers pursuant to this Act or any regulations made thereunder, to require the applicant to submit specified information in relation to the appeal.

(3) the Minister may by regulations provide for matters of procedure in relation to the making of a request for and the giving of a written opinion pursuant to this section.”.

7. The 1989 Regulations are hereby amended by the insertion after article 26 thereof of the following article—

“27. The criteria set out in the Third Schedule are hereby specified for the purposes of this article.”.

8. The 1989 Regulations are hereby amended by—

(a) the substitution for the First and Second Schedules (as amended by article 7 of the 1998 Regulations) thereto of the First and Second Schedules respectively to these regulations;

(b) the insertion following the Second Schedule thereto of the Third Schedule to these regulations.

PART III

Amendment of Miscellaneous Enactments.

9. The Foreshore Act. 1933 (No. 12 of 1933), is hereby amended by—

(a) the insertion after subsection (2) of section 13A thereof, as inserted by article 13 of the 1989 Regulations, of the following subsections—

“(2A) Where a relevant application would involve the undertaking of development which would—

(a) be of a class referred to in subsection (1) of this section but for not exceeding a quantity, area or other limit for the time being specified in relation to that class, and

(b) be located on—

(i) a special area of conservation,

(ii) a site notified in accordance with Regulation 4 of the European Communities (Natural Habitats) Regulations, 1997 (S.I. No. 94 of 1997),

(iii) an area classified pursuant to paragraph (1) or (2) of article 4 of Council Directive No. 79/409/EEC of 2 April, 1979, on the conservation of wild birds (O.J. No. L 103, 25 April, 1979),

(iv) a site where consultation has been initiated in accordance with article 5 of Council Directive 92/43/EEC of 21 May, 1992, on the conservation of natural habitats and of wild fauna and flora (O.J. No. L 206, 22 July, 1992),

(v) land established or recognised as a nature reserve within the

meaning of section 15 or 16 of the Wildlife Act, 1976 (No. 39 of 1976) ,

(vi) land designated as a refuge for fauna under section 17 of the Wildlife Act, 1976 , (No. 39 of 1976),

the Minister shall decide whether the said development would or would not be likely to have significant effects on the environment.

(2B) The Minister shall, where he is deciding pursuant to this section whether a proposed development would or would not be likely to have significant effects on the environment, have regard to the criteria specified for the purposes of article 27 of the European Communities (Environmental Impact Assessment) Regulations, 1989.

(2C) Where the Minister makes a decision pursuant to subsection (2A) on whether a proposed development would or would not be likely to have significant effects on the environment, he shall make arrangements to make the said decision available for inspection by members of the public.”;

(b) the insertion after subsection (3) of section 13A thereof, as inserted by article 13 of the 1989 Regulations, of the following subsection—

“(3A) (a) If a person, before submitting an environmental impact statement in accordance with a requirement of or under this section, so requests, the Minister shall, after consulting the person who made the request and such bodies as may be prescribed for that purpose, 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 Minister of his powers under this Act to require the person who made the request to furnish further information in relation to the effects on the environment of development proposed in the relevant application concerned.”;

(c) the substitution for paragraph (a) of subsection (4) of section 13A thereof, as inserted by article 13 of the 1989 Regulations, of the following paragraph—

“(a) The Minister may, subject to paragraph (d) of this subsection, by order, where he is satisfied that exceptional circumstances so warrant and after consultation with the Minister for the Environment and Local Government, exempt a relevant application or a proposed relevant application from the requirement of subsection (1) of this section.”;

(d) the addition after paragraph (c) of subsection (4) of section 13A thereof, as amended by article 8 of the 1998 Regulations, of the following paragraph—

“(d) An exemption shall not be granted under paragraph (a) of this subsection in respect of a relevant application or a proposed relevant application if

another Member State of the European Communities, having been informed pursuant to section 19C of this Act 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.”;

(e) the substitution for subsection (1) of section 19B thereof, as inserted by article 13 of the 1989 Regulations, of the following subsection—

“(l) Where an environmental impact statement has been submitted in accordance with a requirement of or under section 13A of this Act, the Minister shall have regard to the said statement, to any objections and representations made to him during the prescribed period in relation to the effects on the environment of the proposal, and to the views, if any, furnished by other Member States of the European Communities pursuant to section 19C of this Act.”;

(f) the substitution for section 19C thereof, as inserted by article 13 of the 1989 Regulations, of the following section—

“19C. (1) Where the Minister considers that proposed development, which is the subject of an environmental impact statement in accordance with a requirement of or under section 13A of this Act, would be likely to have significant effects on the environment in another Member State of the European Communities, or where another Member State of the European Communities considers that the said development would be likely to have the said effects and so requests, he shall, as soon as possible, send to that other Member State—

(a) a description of the proposed development and any available information on its possible effects on the environment in that Member State, and

(b) information on the nature of the decision which may be taken,

and shall give to that Member State a reasonable time to indicate whether it wishes to furnish views on the said effects.

(2) Where a Member State of the European Communities which has received information pursuant to subsection (1) of this section indicates that it wishes to furnish views on the likely effects on the environment of the proposed development, the Minister shall, if he has not already done so, send to that Member State—

(a) a copy of the environmental impact statement, and

(b) relevant information about the procedure for making a decision on the relevant application concerned.

(3) The Minister shall enter into consultations with a Member State of the European Communities to which information was sent pursuant to subsection (2) of this section regarding the potential effects of the proposed development on the environment in that Member State and

the measures envisaged to reduce or eliminate such effects.

(4) The Minister shall notify a Member State of the European Communities to which information was sent pursuant to subsection (2) of this section of his decision on the relevant application concerned.”;

(g) the substitution for section 21A thereof, as inserted by article 13 of the 1989 Regulations, of the following section—

“21A. When a decision is taken on a relevant application in respect of which an environmental impact statement was submitted in accordance with a requirement of or under section 13A of this Act, the Minister shall—

(a) publish notice of the decision in the *Iris Oifigiúil* and in one or more newspapers circulating in the district in which is situated the foreshore to which the relevant application relates,

(b) make arrangements to make the said statement and information on the decision available for inspection by members of the public during a period to be specified by him.”.

10. The Arterial Drainage Act, 1945 (No. 3 of 1945) , is hereby amended by—

(a) the addition after sub-paragraph (ii) of paragraph (b) of subsection (2A) of section 4 thereof, as inserted by article 16 of the 1989 Regulations, of the following sub-paragraph—

“(iii) The Minister shall, where he is deciding pursuant to this subsection whether proposed drainage works would or would not be likely to have significant effects on the environment, have regard to the criteria specified for the purposes of article 27 of the European Communities (Environmental Impact Assessment) Regulations, 1989.”;

(b) the addition after paragraph (c) of subsection (2A) of section 4 thereof, as inserted by article 16 of the 1989 Regulations, of the following paragraphs—

“(d) If the Commissioners, before submitting a drainage scheme which is required in accordance with this subsection to contain an environmental impact statement, so request, the Minister shall, after consulting the Commissioners and such bodies as may be prescribed by the Minister by regulations for that purpose, give a written opinion on the information to be contained in such statement.

(e) The giving of a written opinion in accordance with paragraph (d) of this subsection shall not prejudice the exercise by the Minister of his powers pursuant to this Act to require the Commissioners to furnish further information in relation to the effects on the environment of the proposed drainage works.”;

(c) the substitution for paragraph (a) of subsection (2B) of section 4 thereof, as

inserted by article 16 of the 1989 Regulations, of the following paragraph—

“(a) The Minister may, subject to paragraph (d) of this subsection, by order, where he is satisfied that exceptional circumstances so warrant and after consultation with the Minister for the Environment and Local Government, exempt a drainage scheme or a proposed drainage scheme from the requirement of paragraph (a) of subsection (2A) of this Section.”;

(d) the addition after paragraph (c) of subsection (2B) of section 4 thereof, as amended by article 10 of the 1998 Regulations, of the following paragraph—

“(d) An exemption shall not be granted under paragraph (a) of this subsection in respect of a drainage scheme or a proposed drainage scheme if another Member State of the European Communities, having been informed pursuant to subsection (4) of section 7 of this Act about the proposed drainage works and their likely effects on the environment in that State, has indicated that it intends to furnish views on the said effects.”;

(e) the substitution for subsection (3) of section 7 thereof, as inserted by article 16 of the 1989 Regulations, of the following subsection—

“(3) Where, in accordance with subsection (2A) of section 4 of this Act, a drainage scheme contains an environmental impact statement—

(a) the Minister shall—

(i) have regard to the said statement, to any observations received by the Commissioners or the Minister in relation to the effects on the environment of the proposed drainage works, and to the views, if any, furnished by other Member States of the European Communities pursuant to subsection (4) of this section,

(ii) publish in the *Iris Oifigiúil* and in one or more newspapers circulating in the area proposed by such scheme to be constituted a separate drainage district, a notice stating his decision in relation to the scheme, and

(b) the Commissioners shall, when a decision is taken on the drainage scheme concerned, make the said statement and information on the decision available for inspection by members of the public during a period to be specified by the Minister.”;

(f) the substitution for subsection (4) of section 7 thereof, as inserted by article 16 of the 1989 Regulations, of the following subsection—

“(4) (a) Where the Minister considers that proposed drainage works, which are the subject of an environmental impact statement in accordance with subsection (2A) of section 4 of this Act, would be likely to have significant effects on the environment in another Member State of the European Communities, or where another Member State of the

European Communities considers that the said drainage works would be likely to have the said effects and so requests, he shall, as soon as possible, send to that other Member State—

(i) a description of the proposed drainage works and any available information on their possible effects on the environment in that Member State, and

(ii) information on the nature of the decision which may be taken,

and shall give to that Member State a reasonable time to indicate whether it wishes to furnish views on the said effects.

(b) Where a Member State of the European Communities which has received information pursuant to paragraph (a) of this subsection indicates that it wishes to furnish views on the likely effects on the environment of the proposed drainage works, the Minister shall, if he has not already done so, send to that Member State—

(i) a copy of the environmental impact statement, and

(ii) relevant information about the procedure for making a decision on the drainage scheme concerned.

(c) The Minister shall enter into consultations with a Member State of the European Communities to which information was sent pursuant to paragraph (b) of this subsection regarding the potential effects of the proposed drainage works on the environment in that Member State and the measures envisaged to reduce or eliminate such effects.

(d) The Minister shall notify a Member State of the European Communities which was sent information pursuant to paragraph (b) of this subsection of his decision on the drainage scheme concerned.”.

11. The Harbours Act, 1946 (No. 9 of 1946) , is hereby amended by—

(a) the substitution for subsection (9) of section 134 thereof, as inserted by article 17 of the 1989 Regulations, of the following subsection—

“(9) When a decision is taken on an application for a harbour works order which contained an environmental impact statement in accordance with subsection (2A) of section 138 of the Act—

(a) the Minister shall, as soon as may be, publish in the *Iris Oifigiúil* and in two newspapers circulating in the county in which is situate the principal office of the harbour authority to whom the application relates notice of the decision,

(b) the relevant harbour authority shall make the said statement and information on the decision available for inspection by members of the public during a period to be specified by the Minister.”;

(b) the substitution for paragraphs (cc) and (ccc) of subsection (1) of section 136 thereof, as inserted by article 17 of the 1989 Regulations, of the following paragraphs—

“(cc) in making the order, the Minister shall, where the order would authorise works in respect of which an environmental impact statement has been prepared in accordance with subsection (2A) of section 138 of this Act, have regard, in addition to the matters mentioned in paragraph (c) of this subsection, to the environmental impact statement prepared by the harbour authority, and to the views, if any, furnished by other Member States of the European Communities pursuant to paragraph (ccc) of this subsection,

(ccc) (i) the Minister shall, where he considers that proposed works, which are the subject of an environmental impact statement in accordance with subsection (2A) of section 138 of this Act, would be likely to have significant effects on the environment in another Member State of the European Communities, or where another Member State of the European Communities considers that the said works would be likely to have the said effects and so requests, as soon as possible, send to that other Member State a description of the proposed works and any available information on their possible effects on the environment in that Member State, and information on the nature of the decision which may be taken, and shall give to that Member State a reasonable time to indicate whether it wishes to furnish views on the said effects,

(ii) where a Member State of the European Communities which has received information pursuant to sub-paragraph (i) of this paragraph indicates that it wishes to furnish views on the likely effect on the environment of the proposed works, the Minister shall, if he has not already done so, send to that Member State a copy of the environmental impact statement, and relevant information about the procedure for making a decision on the relevant application for a harbour works order,

(iii) the Minister shall enter into consultations with a Member State of the European Communities to which information was sent pursuant to sub-paragraph (ii) of this paragraph regarding the potential effects of the proposed works on the environment in that Member State and the measures envisaged to reduce or eliminate such effects,

(iv) the Minister shall notify a Member State of the European Communities to which information was sent pursuant to sub-paragraph (ii) of this paragraph of his decision on the relevant application for a harbour works order.”;

(c) the addition after sub-paragraph (ii) of paragraph (b) of subsection (2A) of section 138 thereof, as inserted by article 17 of the 1989 Regulations, of the following sub-paragraph—

“(iii) The Minister shall, where he is deciding pursuant to this subsection

whether proposed works would or would not be likely to have significant effects on the environment, have regard to the criteria specified for the purposes of article 27 of the European Communities (Environmental Impact Assessment) Regulations, 1989.”;

(d) the addition after paragraph (c) of subsection (2A) of section 138 thereof, as inserted by article 17 of the 1989 Regulations, of the following paragraphs—

“(d) If a harbour authority, before submitting an application for a harbour works order which is required in accordance with this subsection to contain an environmental impact statement, so requests, the Minister shall, after consulting the harbour authority concerned and such bodies as may be specified by the Minister for that purpose, give a written opinion on the information to be contained in such statement.

(e) The giving of a written opinion in accordance with paragraph (d) of this subsection shall not prejudice the exercise by the Minister of his powers pursuant to this Act to require the relevant harbour authority to furnish further information in relation to the effects on the environment of the proposed works.”;

(e) the substitution for paragraph (a) of subsection (2B) of section 138 thereof, as inserted by article 17 of the 1989 Regulations, of the following paragraph—

“(a) The Minister may, subject to paragraph (d) of this subsection, by order, where he is satisfied that exceptional circumstances so warrant and after consultation with the Minister for the Environment and Local Government, exempt proposed works from the requirement of paragraph (a) of subsection (2A) of this section.”;

(f) the addition after paragraph (c) of subsection (2B) of section 138, as amended by article 11 of the 1998 Regulations, of the following paragraph—

“(d) An exemption shall not be granted under paragraph (a) of this subsection in respect of proposed works if another Member State of the European Communities, having been informed pursuant to section 136 of this Act about the proposed works and their likely effects on the environment in that State, has indicated that it intends to furnish views on the said effects.”.

12. The Petroleum and Other Minerals Development Act, 1960 (No. 7 of 1960) is hereby amended by—

(a) the substitution for subsection (1) of section 13A thereof, as inserted by article 19 of the 1989 Regulations, of the following subsection—

“(1) (a) A plan submitted to the Minister under the terms of a lease under section 13 of this Act seeking his approval for working of petroleum under land (not being land situate within the functional area of a planning authority within the meaning of the Local Government (Planning and Development) Acts, 1963 to 1998) shall, where the proposed working is of a class for the time being

specified under article 24 of the European Communities (Environmental Impact Assessment) Regulations, 1989, or under any provision amending or replacing the said article 24, be accompanied by a statement of the likely effects on the environment (hereinafter referred to as an “environmental impact statement”) of the proposed working.

- (b) Where a plan submitted to the Minister under the terms of a lease under section 13 of this Act seeks his approval for working of petroleum which would be of a class referred to in paragraph (a) of this subsection but for not exceeding a quantity, area or other limit for the time being specified in relation to that class, and where the Minister considers that the proposed working would be likely to have significant effects on the environment, he shall require the applicant to submit an environmental impact statement in respect of the proposed working.
- (c) Where a plan submitted to the Minister under the terms of a lease under section 13 of this Act seeks his approval for working of petroleum which would—
 - (i) be of a class referred to in paragraph (a) of this subsection but for not exceeding a quantity, area or other limit for the time being specified in relation to that class, and
 - (ii) be located on—
 - (I) a special area of conservation,
 - (II) a site notified in accordance with Regulation 4 of the European Communities (Natural Habitats) Regulations, 1997 (S.I. No. 94 of 1997),
 - (III) an area classified pursuant to paragraph (1) or (2) of article 4 of Council Directive No. 79/409/EEC of 2 April, 1979, on the conservation of wild birds (O.J. No. L 103, 25 April, 1979),
 - (IV) a site where consultation has been initiated in accordance with article 5 of Council Directive 92/43/EEC of 21 May, 1992, on the conservation of natural habitats and of wild fauna and flora (O.J. No. L 206, 22 July, 1992),
 - (V) land established or recognised as a nature reserve within the meaning of section 15 or 16 of the Wildlife Act, 1976 (No. 39 of 1976) ,
 - (VI) land designated as a refuge for fauna under section 17 of the Wildlife Act, 1976 (No. 39 of 1976),

the Minister shall decide whether the proposed working would or would not be likely to have significant effects on the environment.

- (d) The Minister shall, where he is deciding pursuant to this subsection whether a proposed working of petroleum would or would not be likely to have significant effects on the environment, have regard to the criteria specified for the purposes of article 27 of the European Communities (Environmental Impact Assessment) Regulations, 1989.
 - (e) Where the Minister makes a decision pursuant to paragraph (c) on whether a proposed working of petroleum would or would not be likely to have significant effects on the environment, he shall make arrangements to make the said decision available for inspection by members of the public.
 - (f) An environmental impact statement shall contain the information for the time being specified under article 25 of the European Communities (Environmental Impact Assessment) Regulations, 1989, or under any provision amending or replacing the said article 25.
 - (g) If a person, before submitting a plan which is required in accordance with this subsection to be accompanied by an environmental impact statement, so requests, the Minister shall, after consulting the person concerned and the bodies prescribed for that purpose, give a written opinion on the information to be contained in such statement.
 - (h) The giving of a written opinion in accordance with this subsection shall not prejudice the exercise by the Minister of his powers pursuant to this Act to require the person who made the request to furnish further information in relation to the effects on the environment of working of petroleum proposed in the plan concerned.”;
- (b) the substitution for paragraph (a) of subsection (5) of section 13A thereof, as inserted by article 19 of the 1989 Regulations, of the following paragraph—
- “(a) Where an environmental impact statement has been submitted in accordance with a requirement of or under subsection (1) of this section, the Minister shall have regard to the said statement, to any submissions or observations made to him during the prescribed period in relation to the effects on the environment of the proposed working of petroleum, and to the views, if any, furnished by other Member States of the European Communities pursuant to subsection (7) of this section.”;
- (c) the substitution for paragraph (a) of subsection (6) of section 13A thereof, as inserted by article 19 of the 1989 Regulations, of the following paragraph—
- “(a) The Minister may, subject to paragraph (d) of this subsection, by order, where he is satisfied that exceptional circumstances so warrant and after consultation with the Minister for the Environment and Local Government, exempt a plan or a proposed plan seeking approval for working of petroleum from the requirement of subsection (1)(a) of this

section.”;

(d) the addition after paragraph (c) of subsection (6) of section 13A thereof, as amended by article 12 of the 1998 Regulations, of the following paragraph—

“(d) An exemption shall not be granted under paragraph (a) of this subsection in respect of a plan or proposed plan relating to working of petroleum if another Member State of the European Communities, having been informed pursuant to subsection (7) of this section about the proposed working and its likely effects on the environment in that State, has indicated that it intends to furnish views on the said effects.”;

(e) the substitution for subsection (7) of section 13A thereof, as inserted by article 19 of the 1989 Regulations, of the following subsection—

“(7) (a) Where the Minister considers that proposed working of petroleum, which is the subject of an environmental impact statement in accordance with a requirement of or under subsection (1) of this section, would be likely to have significant effects on the environment in another Member State of the European Communities, or where another Member State of the European Communities considers that the said working would be likely to have the said effects and so requests, he shall, as soon as possible, send to that other Member State—

(i) a description of the proposed working and any available information on its possible effects on the environment in that Member State, and

(ii) information on the nature of the decision which may be taken,

and shall give to that Member State a reasonable time to indicate whether it wishes to furnish views on the said effects.

(b) Where a Member State of the European Communities which has received information pursuant to paragraph (a) of this subsection indicates that it wishes to furnish views on the likely effects on the environment of the proposed working, the Minister shall, if he has not already done so, send to that Member State—

(i) a copy of the environmental impact statement, and

(ii) relevant information about the procedure for making a decision on the plan concerned.

(c) The Minister shall enter into consultations with a Member State of the European Communities to which information was sent pursuant to paragraph (b) of this subsection regarding the potential effects of the proposed working on the environment in that Member State and the measures envisaged to reduce or eliminate such effects.

(d) The Minister shall notify a Member State of the European Communities to which information was sent pursuant to paragraph (b) of this subsection of his decision on the plan concerned.”;

(f) the substitution for subsection (8) of section 13A thereof, as inserted by article 19 of the 1989 Regulations, of the following subsection—

“(8) When a decision is taken on an application for approval for working of petroleum in respect of which an environmental impact statement was submitted in accordance with a requirement of or under subsection (1) of this section, the Minister shall—

(a) publish notice of the decision in the *Iris Oifigiúil* and in at least one daily newspaper published in the State,

(b) make arrangements to make the said statement and information on the decision available for inspection by members of the public during a period to be specified by him”.

13. The Gas Act, 1976 (No. 30 of 1976) is hereby amended by—

(a) the substitution for subsection (1) of section 40A thereof, as inserted by article 20 of the 1989 Regulations, of the following subsection—

“(1) (a) An application to the Minister by the Board for his consent under subsection (7) of section 8 to the construction of a pipeline, or a notice given to the Minister by a person other than the Board, under subsection (1) of section 40 in relation to the proposed construction of a pipeline, shall, where the proposed pipeline is of a class for the time being specified under article 24 of the European Communities (Environmental Impact Assessment) Regulations, 1989, or under any provision amending or replacing the said article 24, be accompanied by a statement of the likely effects on the environment (hereinafter referred to as an “environmental impact statement”) of the proposed pipeline.

(b) Where an application is made by the Board, or a notice is given by a person other than the Board, in relation to a proposed pipeline which would be of a class referred to in paragraph (a) of this subsection but for not exceeding a quantity, area or other limit for the time being specified in relation to that class, and where the Minister considers that the proposed pipeline would be likely to have significant effects on the environment, he shall require the Board or other person, as the case may be, to submit an environmental impact statement in respect of the proposed pipeline.

(c) Where an application is made by the Board or a notice is given by a person other than the Board in relation to a proposed pipeline which would—

(i) be of a class referred to paragraph (a) of this subsection but

for not exceeding a quantity, area or other limit for the time being specified in relation to that class, and

(ii) be located on—

(I) a special area of conservation,

(II) a site notified in accordance with Regulation 4 of the European Communities (Natural Habitats) Regulations, 1997 (S.I. No. 94 of 1997),

(III) an area classified pursuant to paragraph (1) or (2) of article 4 of Council Directive No. 79/409/EEC of 2 April, 1979, on the conservation of wild birds (O.J. No. L 103, 25 April, 1979),

(IV) a site where consultation has been initiated in accordance with article 5 of Council Directive 92/43/EEC of 21 May, 1992, on the conservation of natural habitats and of wild fauna and flora (O.J. No. L 206, 22 July, 1992),

(V) land established or recognised as a nature reserve within the meaning of section 15 or 16 of the Wildlife Act, 1976 (No. 39 of 1976) ,

(VI) land designated as a refuge for fauna under section 17 of the Wildlife Act, 1976 (No. 39 of 1976),

the Minister shall decide whether the proposed pipeline would or would not be likely to have significant effects on the environment.

(d) The Minister shall, where he is deciding whether a proposed pipeline would or would not be likely to have significant effects on the environment, have regard to the criteria specified for the purposes of article 27 of the European Communities (Environmental Impact Assessment) Regulations, 1989.

(e) Where the Minister makes a decision pursuant to paragraph (c) on whether a proposed pipeline would or would not be likely to have significant effects on the environment, he shall make arrangements to make the said decision available for inspection by members of the public.

(f) An environmental impact statement shall contain the information for the time being specified under article 25 of the European Communities (Environmental Impact Assessment) Regulations, 1989, or under any provision amending or replacing the said article 25.

(g) If the Board or a person, before making an application or giving a notice (as the case may be), which is required in accordance with

this subsection to be accompanied by an environmental impact statement, so requests, the Minister shall, after consulting the bodies prescribed for that purpose and the Board or person (as the case may be), give a written opinion on the information to be contained in such statement.

(h) The giving of a written opinion in accordance with this subsection shall not prejudice the exercise by the Minister of his powers pursuant to this Act to require the Board or person giving the notice (as the case may be) to furnish further information in relation to the effects on the environment of the proposed pipeline.”;

(b) the substitution for paragraph (a) of subsection (5) of section 40A thereof, as inserted by article 20 of the 1989 Regulations, of the following paragraph—

“(a) Where an environmental impact statement has been submitted in accordance with a requirement of or under subsection (1) of this section, the Minister shall have regard to the said statement, to any submissions or observations made to him during the prescribed period in relation to the effects on the environment of the proposed pipeline, and to the views, if any, furnished by other Member States of the European Communities pursuant to subsection (7) of this section.”;

(c) the substitution for paragraph (a) of subsection (6) of section 40A thereof, as inserted by article 20 of the 1989 Regulations, of the following paragraph—

“(a) The Minister may, subject to paragraph (d) of this subsection, by order, where he is satisfied that exceptional circumstances so warrant and after consultation with the Minister for the Environment and Local Government, exempt an application or notice or a proposed application or notice from the requirement of subsection (1)(a) of this section.”;

(d) the addition after paragraph (c) of subsection (6) of section 40A thereof, as amended by article 13 of the 1998 Regulations, of the following paragraph—

“(d) An exemption shall not be granted under paragraph (a) of this subsection in respect of an application or notice or a proposed application or notice relating to a proposed pipeline if another Member State of the European Communities, having been informed pursuant to subsection (7) of this section about the proposed pipeline and its likely effects on the environment in that State, has indicated that it intends to furnish views on the said effects.”;

(e) the substitution for subsection (7) of section 40A thereof, as inserted by article 20 of the 1989 Regulations, of the following subsection—

“(7) (a) Where the Minister considers that a proposed pipeline, which is the subject of an environmental impact statement in accordance with a requirement of or under subsection (1) of this section, would be likely to have significant effects on the environment in another Member State of the European Communities, or where another

Member State of the European Communities considers that the said pipeline would be likely to have the said effects and so requests, he shall, as soon as possible, send to that other Member State—

(i) a description of the proposed pipeline and any available information on its possible effects on the environment in that Member State, and

(ii) information on the nature of the decision which may be taken,

and shall give to that Member State a reasonable time to indicate whether it wishes to furnish views on the said effects.

(b) Where a Member State of the European Communities which has received information pursuant to paragraph (a) of this subsection indicates that it wishes to furnish views on the likely effects on the environment of the proposed pipeline, the Minister shall, if he has not already done so, send to that Member State—

(i) a copy of the environmental impact statement, and

(ii) relevant information about the procedure for making a decision on the application or notice concerned.

(c) The Minister shall enter into consultations with a Member State of the European Communities to which information was sent pursuant to paragraph (b) of this subsection regarding the potential effects of the proposed pipeline on the environment in that Member State and the measures envisaged to reduce or eliminate such effects.

(d) The Minister shall notify a Member State of the European Communities to which information was sent pursuant to paragraph (b) of this subsection of his decision on the application or notice concerned.”;

(f) the substitution for subsection (8) of section 40A thereof, as inserted by article 20 of the 1989 Regulations, of the following subsection—

“(8) When a decision is taken on an application by the Board or arising from a notice given to him by a person other than the Board in the case of a proposed pipeline in respect of which an environmental impact statement was submitted in accordance with a requirement of or under subsection (1) of this section, the Minister shall—

(a) publish notice of his decision in the *Iris Oifigiúil* and in one or more newspapers circulating in the area of the proposed pipeline,

(b) make arrangements to make the said statement and information on the decision available for inspection by members of the public during a period to be specified by him.”.

14. The Roads Act, 1993 (No. 14 of 1993) , is hereby amended by—

(a) the insertion after paragraph (c) of subsection (1) of section 50 thereof of the following paragraphs—

“(d) Where a proposed road development (other than development to which paragraph (a) applies) consisting of the construction of a proposed public road or the improvement of an existing public road would be located on:

(i) a special area of conservation,

(ii) a site notified in accordance with Regulation 4 of the European Communities (Natural Habitats) Regulations, 1997 (S.I. No. 94 of 1997),

(iii) an area classified pursuant to paragraph (1) of (2) of article 4 of Council Directive No. 79/409/EEC of 2 April, 1979, on the conservation of wild birds (O.J. No. L 103, 25 April, 1979),

(iv) a site where consultation has been initiated in accordance with article 5 of Council Directive 92/43/EEC of 21 May, 1992, on the conservation of natural habitats and of wild fauna and flora (O.J. No. L 206, 22 July, 1992),

(v) land established or recognised as a nature reserve within the meaning of section 15 or 16 of the Wildlife Act, 1976 (No. 39 of 1976) ,

(vi) land designated as a refuge for fauna under section 17 of the Wildlife Act, 1976 (No. 39 of 1976),

the road authority concerned shall decide whether the proposed road development would or would not be likely to have significant effects on the environment, and if the authority decides that the proposed road development would be likely to have such effects, paragraph (c) shall apply accordingly.

(e) Where a decision is being made pursuant to this subsection on whether a proposed road development would or would not be likely to have significant effects on the environment, the Minister or the road authority concerned (as the case may be) shall have regard to the criteria specified for the purposes of article 27 of the European Communities (Environmental Impact Assessment) Regulations, 1989.

(f) Where a road authority makes a decision pursuant to paragraph (d) on whether a proposed road development would or would not be likely to have significant effects on the environment, it shall make the said decision available for inspection by members of the public.”;

(b) the substitution for subsections (2) and (3), as substituted by article 14 of the European Communities (Environmental Impact Assessment) (Amendment) Regulations, 1998 (S.I. No. 351 of 1998), of section 50 thereof of the following subsections—

“(2) An environmental impact statement shall contain the following specified information—

- (a) a description of the proposed road development comprising information on the site, design and size of the proposed road development;
- (b) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
- (c) the data required to identify and assess the main effects which the proposed road development is likely to have on the environment;
- (d) an outline of the main alternatives studied by the road authority concerned and an indication of the main reasons for its choice, taking into account the environmental effects;
- (e) a summary in non-technical language of the above information.

(3) An environmental impact statement shall, in addition to and by way of explanation or amplification of the specified information referred to in subsection (2), contain further information on the following matters—

- (a) (i) a description of the physical characteristics of the whole proposed road development and the land-use requirements during the construction and operational phases,
- (ii) an estimate, by type and quantity, of expected residues and emissions (including water, air and soil pollution, noise, vibration, light, heat and radiation) resulting from the operation of the proposed road development;
- (b) a description of the aspects of the environment likely to be significantly affected by the proposed road development, including in particular—
 - human beings, fauna and flora,
 - soil, water, air, climatic factors and the landscape,
 - material assets, including the architectural and archaeological heritage, and the cultural heritage,
 - the inter-relationship between the above factors;
- (c) a description of the likely significant effects (including direct,

indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative) of the proposed road development on the environment resulting from—

—the existence of the proposed road development,

—the use of natural resources,

—the emission of pollutants, the creation of nuisances and the elimination of waste,

and a description of the forecasting methods used to assess the effects on the environment;

(*d*) an indication of any difficulties (technical deficiencies or lack of know-how) encountered by the road authority concerned in compiling the required information;

(*e*) a summary in non-technical language of the above information;

to the extent that such information is relevant to a given stage of the consent procedure and to the specific characteristics of the proposed road development or type of proposed road development concerned, and of the environmental features likely to be affected, and the road authority preparing the environmental impact statement may reasonably be required to compile such information having regard, inter alia, to current knowledge and methods of assessment.”;

(*c*) the insertion after subsection (3) of section 50 thereof of the following subsection—

“(4) (*a*) If a road authority, before submitting an environmental impact statement in accordance with section 51, so requests, the Minister shall, after consulting the road authority concerned and the bodies and persons referred to in paragraph (*b*) of subsection (3) of that section, give a written opinion on the information to be contained in such statement.

(*b*) The giving of a written opinion in accordance with this subsection shall not prejudice the exercise by the Minister of his powers pursuant to subsection (4) of section 51 to require the road authority concerned to furnish him with specified additional information in relation to the likely effects on the environment of the proposed road development.”;

(*d*) the addition after paragraph (*c*) of subsection (3) of section 51 thereof of the following paragraph—

“(d) where the environmental impact statement and a notice has been sent to the prescribed authority in Northern Ireland pursuant to paragraph (*c*), enter into consultations with that authority regarding the potential effects on the environment of the proposed road development and the

measures envisaged to reduce or eliminate such effects.”;

(e) the insertion after subsection (6) of section 51 thereof of the following subsection—

“(6A) A notice published by the Minister pursuant to subsection (6) shall indicate the times at which, the period during which and the place where a copy of the decision and the relevant environmental impact statement may be inspected.”.

15. The Transport (Dublin Light Rail) Act, 1996 (No. 24 of 1996) , is hereby amended by—

(a) the substitution for subsections (1) and (2), as amended by article 15 of the 1998 Regulations, of section 5 thereof of the following subsections—

“(1) An environmental impact statement shall contain the following specified information—

(a) a description of the proposed light railway works comprising information on the site, design and size of the proposed light railway works;

(b) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;

(c) the data required to identify and assess the main effects which the proposed light railway works are likely to have on the environment;

(d) an outline of the main alternatives studied by the Board and an indication of the main reasons for its choice, taking into account the environmental effects;

(e) a summary in non-technical language of the above information;

(2) An environmental impact statement shall, in addition to and by way of explanation or amplification of the specified information referred to in subsection (1), contain further information on the following matters—

(a) (i) a description of the physical characteristics of the whole proposed light railway works and the land-use requirements during the construction and operational phases;

(ii) an estimate, by type and quantity, of expected residues and emissions (including water, air and soil pollution, noise, vibration, light, heat and radiation) resulting from the operation of the proposed light railway works;

(b) a description of the aspects of the environment likely to be significantly affected by the proposed light railway works,

including in particular:

- human beings, fauna and flora,
- soil, water, air, climatic factors and the landscape,
- material assets, including the architectural and archaeological heritage, and the cultural heritage,
- the inter-relationship between the above factors;

(c) a description of the likely significant effects (including direct, indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative) of the proposed light railway works on the environment resulting from—

- the existence of the proposed light railway works,
- the use of natural resources,
- the emission of pollutants, the creation of nuisances and the elimination of waste,

and a description of the forecasting methods used to assess the effects on the environment;

(d) an indication of any difficulties (technical deficiencies or lack of know-how) encountered by the Board in compiling the required information;

(e) a summary in non-technical language of the above information;

to the extent that such information is relevant to a given stage of the consent procedure and to the specific characteristics of the light railway works or type of light railway works concerned, and of the environmental features likely to be affected, and the Board may reasonably be required to compile such information having regard, inter alia, to current knowledge and methods of assessment.”;

(b) the addition after subsection (2) of section 5 thereof of the following subsection-

“(2A) (a) If the Board, before applying to the Minister for a light railway order, so requests, the Minister shall, after consulting the Board and such bodies as may be specified by the Minister for that purpose, give a written opinion on the information to be contained in an environmental impact statement.

(b) The giving of a written opinion in accordance with this subsection shall not prejudice the exercise by the Minister of his or her powers pursuant to this Act to require the Board to furnish further

information in relation to the effects on the environment of the proposed light railway works.”.

16. Section 26 of the Dublin Docklands Development Authority Act, 1997 (No. 7 of 1997), is hereby amended by—

(a) the substitution for subsection (1) thereof of the following subsection—

“(1) (a) Subject to section 25(1)(c), where development proposed in a planning scheme being prepared pursuant to section 25 is of a class for the time being specified under article 24 of the European Communities (Environmental Impact Assessment) Regulations, 1989, or under any provision amending or replacing the said article 24, or where such a development would be of such a class but for not exceeding a quantity, area or other limit for the time being specified in relation to that class and the Authority consider it likely to have significant effects on the environment, the Authority shall prepare a statement of the likely effects on the environment (hereinafter referred to as an “environmental impact statement”) of that development.

(b) Where development proposed in a planning scheme being prepared pursuant to section 25 would—

(i) be of a class referred to in article 24 of the European Communities (Environmental Impact Assessment) Regulations, 1989, or any provision amending or replacing the said article 24, but for not exceeding a quantity, area or other limit for the time being specified in relation to that class, and

(ii) be located on-

(I) a special area of conservation,

(II) a site notified in accordance with Regulation 4 of the European Communities (Natural Habitats) Regulations, 1997 (S.I. No. 94 of 1997),

(III) an area classified pursuant to paragraph (1) or (2) of article 4 of Council Directive No. 79/409/EEC of 2 April, 1979, on the conservation of wild birds (O.J. No. L 103, 25 April, 1979),

(IV) a site where consultation has been initiated in accordance with article 5 of Council Directive 92/43/EEC of 21 May, 1992, on the conservation of natural habitats and of wild fauna and flora (O.J. No. L 206, 22 July, 1992),

(V) land established or recognised as a nature reserve within the meaning of section 15 or 16 of the Wildlife Act, 1976

(No. 39 of 1976) ,

(VI) land designated as a refuge for fauna under section 17 of the Wildlife Act, 1976 (No. 39 of 1976),

the Authority shall decide whether the development proposed would or would not be likely to have significant effects on the environment.

- (c) The Authority shall, where it is deciding pursuant to this subsection whether a proposed development would or would not be likely to have significant effects on the environment, have regard to the criteria specified for the purposes of article 27 of the European Communities (Environmental Impact Assessment) Regulations, 1989.
- (d) Where the Authority makes a decision pursuant to paragraph (b) on whether a development proposed would or would not be likely to have significant effects on the environment, it shall make the said decision available for inspection by members of the public.
- (e) An environmental impact statement prepared pursuant to paragraph (a) shall contain the information for the time being specified under Article 25 of the European Communities (Environmental Impact Assessment) Regulations, 1989, or under any provision amending or replacing the said article 25.
- (f) If the Authority, before preparing an environmental impact statement pursuant to this subsection, so requests, the Minister shall, after consulting with the Authority, Dublin Corporation and such bodies as may be specified by the Minister for that purpose, give a written opinion on the information to be contained in such statement.
- (g) The giving of a written opinion in accordance with this subsection shall not prejudice the exercise by the Minister of his powers pursuant to this Act to require the Authority to furnish further information in relation to the effects on the environment of the proposed development.”;

(b) the insertion after subsection (7) thereof, as inserted by article 16 of the 1998 Regulations, of the following subsection-

“(8) Where a decision is taken by the Minister on a planning scheme and an environmental impact statement was prepared in respect of the development concerned in accordance with subsection (1) of this section, the Authority shall make the said statement and information on the decision available for inspection by members of the public during a period to be specified by the Minister.”.

17. Section 10 of the Fisheries (Amendment) Act, 1997 (No. 23 of 1997), is hereby amended by the insertion after subsection (3) thereof of the following subsection—

- “(4) (a) Without prejudice to subsection (3)(d) of this section, if a person, before making an application for a licence in respect of which an environmental impact statement must be submitted in accordance with regulations under this section, so requests, the Minister shall, after consulting such person and such bodies as may be prescribed for that purpose, 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 Minister of his or her powers under this Act or regulations made thereunder to require the person concerned to furnish further information in relation to the effects on the environment of the aquaculture concerned.

FIRST SCHEDULE

Development for the purposes of these regulations

Article 24

Part I

1. A crude oil refinery (excluding undertakings manufacturing only lubricants from crude oil) or an installation for the gasification and liquifaction of 500 tonnes or more of coal or bituminous shale per day.
2. (a) A thermal power station or other combustion installation with a heat output of 300 megawatts or more.
- (b) A nuclear power station or other nuclear reactor including the dismantling or decommissioning of such a power station or reactor⁽¹⁾ (except a research installation for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1kW continuous thermal load).
3. (a) All installations for the reprocessing of irradiated nuclear fuel.
- (b) Installations designed—
 - for the production or enrichment of nuclear fuel,
 - for the processing of irradiated nuclear fuel or high level radioactive waste,
 - for the final disposal of irradiated fuel,
 - solely for the final disposal of radioactive waste,
 - solely for the storage (planned for more than 10 years) of irradiated fuels or radioactive waste in a different site than the production site.

4. (a) Integrated works for the initial smelting of cast iron and steel.

(b) Installations for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes.
5. An installation for the extraction of asbestos or for the processing and transformation of asbestos or products containing asbestos—

(a) in case the installation produces asbestos-cement products, where the annual production would exceed 20,000 tonnes of finished products,

(b) in case the installation produces friction material, where the annual production would exceed 50 tonnes of finished products, or

(c) in other cases, where the installation would utilise more than 200 tonnes of asbestos per year.
6. Integrated chemical installations, i.e. those installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are—

(a) for the production of basic organic chemicals,

(b) for the production of basic inorganic chemicals,

(c) for the production of phosphorous, nitrogen or potassium based fertilisers (simple or compound fertilisers),

(d) for the production of basic plant health products and of biocides,

(e) for the production of basic pharmaceutical products using a chemical or biological process,

(f) for the production of explosives.
7. A line for long-distance railway traffic, or an airport ⁽²⁾ with a basic runway length of 2,100 metres or more.
8. (a) Inland waterways and ports for inland waterway traffic which permit the passage of vessels of over 1,350 tonnes.

(b) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes.
9. Waste disposal installations for the incineration, chemical treatment as defined in Annex IIA to Directive 75/442/EEC ⁽³⁾) under heading D9, or landfill of hazardous

waste (i.e. waste to which Directive 91/689/EEC ⁽⁴⁾) applies).

10. Waste disposal installations for the incineration or chemical treatment as defined in Annex IIA to Directive 75/442/EEC under heading D9, of non-hazardous waste with a capacity exceeding 100 tonnes per day.
11. Groundwater abstraction or artificial groundwater recharge schemes, where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.
12. (a) Works for the transfer of water resources between river basins, where this transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres/year.

(b) In all other cases, works for the transfer of water resources between river basins, where the multiannual average flow of the basin of abstraction exceeds 2,000 million cubic metres/year and where the amount of water transferred exceeds 5% of this flow.
13. Waste water treatment plants with a capacity exceeding 150,000 population equivalent as defined in Article 2 (6) of Directive 91/271/EEC ⁽⁵⁾).
14. Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes/day in the case of petroleum and 500,000 m³/day in the case of gas.
15. Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.
16. Pipelines for the transport of gas, oil or chemicals with a diameter of more than 800mm and a length of more than 40km.
17. Installations for the intensive rearing of poultry or pigs with more than—

(a) 85,000 places for broilers, 60,000 places for hens;

(b) 3,000 places for production pigs (over 30 kg); or

(c) 900 places for sows.
18. Industrial plants for the—

(a) production of pulp from timber or similar fibrous materials;

(b) production of paper and board with a production capacity exceeding 200 tonnes per day.
19. Quarries and open-cast mining where the surface of the site exceeds 25 hectares, or peat extraction, where the surface of the site exceeds 150 hectares.

20. Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km.
21. Installations for storage of petroleum, petrochemical, or chemical products with a capacity of 200,000 tonnes or more.

Part II

1. *Agriculture, Silviculture and Aquaculture*

- (a) Projects for the restructuring of rural land holdings, where the area to be restructured would be greater than 100 hectares.
- (b) The use of uncultivated land or semi-natural areas for intensive agricultural purposes, where the area to be used for such purposes would be greater than 100 hectares.
- (c) Water management projects for agriculture, including irrigation and land drainage projects, where the catchment area involved would be greater than 1,000 hectares, or where more than 20 hectares of wetland would be affected.
- (d)
 - (i) Initial afforestation, where the area involved, either on its own or taken together with any adjacent area planted by or on behalf of the applicant within the previous three years, would result in a total area planted exceeding 70 hectares, and for the purposes of this subparagraph an area, other than an area planted before 1 October, 1996, shall be deemed to be adjacent if its nearest point lies within 500 metres of any part of the area involved.
 - (ii) Replacement of broadleaf high forest by conifer species, where the area involved would be greater than 10 hectares.
 - (iii) Deforestation for the purpose of conversion to another type of land use, where the area to be deforested would be greater than 10 ha of natural woodlands or 70 hectares of conifer forest.
- (e)
 - (i) Installations for intensive rearing of poultry not included in Part I of this Schedule which would have more than 40,000 places for poultry.
 - (ii) Installations for intensive rearing of pigs not included in Part I of this Schedule which would have more than 2,000 places for production pigs (over 30 kg) in a finishing unit, more than 400 places for sows in a breeding unit or more than 200 places for sows in an integrated unit.
- (f) Seawater fish breeding installations with an output which would exceed 100 tonnes per annum; all fish breeding installations consisting of cage rearing in lakes; all fish breeding installations upstream of drinking water intakes; other fresh-water fish breeding installations which would exceed 1 million smolts and with less than 1 cubic metre per second per 1 million smolts low flow

diluting water.

- (g) Reclamation of land from the sea, where the area of reclaimed land would be greater than 10 hectares.

2. *Extractive Industry*

- (a) Peat extraction not included in Part I of this Schedule which would involve a new or extended area of 50 hectares.
- (b) Extraction of stone, gravel, sand or clay, where the area of extraction would be greater than 5 hectares.
- (c) All extraction of minerals within the meaning of the Minerals Development Acts, 1940 to 1995.
- (d) Extraction of stone, gravel, sand or clay by marine dredging (other than maintenance dredging), where the area involved would be greater than 5 hectares or, in the case of fluvial dredging (other than maintenance dredging), where the length of river involved would be greater than 500 metres.
- (e) All geothermal drilling and drilling for the storage of nuclear waste material; drilling, other than test drilling, for water supplies, where the expected supply would exceed 2 million cubic metres per annum.
- (f) All surface industrial installations for the extraction of coal, petroleum (excluding natural gas), ores or bituminous shale not included in Part I of this Schedule.
- (g) All extraction of petroleum (excluding natural gas) not included in Part I of this Schedule.
- (h) All onshore extraction of natural gas and offshore extraction of natural gas (where the extraction would take place within 10 kilometres of the shoreline) not included in Part I of this Schedule.

3. *Energy Industry*

- (a) Industrial installations for the production of electricity, steam and hot water not included in Part I of this Schedule with a heat output of 300 megawatts or more.
- (b) Industrial installations for carrying gas, steam and hot water with a potential heat output of 300 megawatts or more, or transmission of electrical energy by overhead cables not included in Part I of this Schedule, where the voltage would be 200 kV or more.
- (c) Installations for surface storage of natural gas, where the storage capacity would exceed 200 tonnes.
- (d) Installations for underground storage of combustible gases, where the storage

capacity would exceed 200 tonnes.

- (e) Installations for the surface storage of fossil fuels, where the storage capacity would exceed 100,000 tonnes.
- (f) Installations for industrial briquetting of coal and lignite, where the production capacity would exceed 150 tonnes per day.
- (g) Installations for the processing and storage of radioactive waste not included in Part I of this Schedule.
- (h) Installations for hydroelectric energy production with an output of 20 megawatts or more, or where the new or extended superficial area of water impounded would be 30 hectares or more, or where there would be a 30 per cent change in the maximum, minimum or mean flows in the main river channel.
- (i) Installations for the harnessing of wind power for energy production (wind farms) with more than 5 turbines or having a total output greater than 5MW.

4. *Production and processing of metals*

- (a) All installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting.
- (b) Installations for the processing of ferrous metals:
 - (i) hot-rolling mills and smitheries with hammers, where the production area would be greater than 500 square metres,
 - (ii) application of protective fused metal coats, where the production area would be greater than 100 square metres.
- (c) Ferrous metal foundries with a batch capacity of 5 tonnes or more or where the production area would be greater than 500 square metres.
- (d) Installations for the smelting, including the alloyage, of non-ferrous metals, excluding precious metals, including recovered products (refining foundry casting etc), where the melting capacity would exceed 0.5 tonnes or where the production area would be greater than 500 square metres.
- (e) Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process, where the production area would be greater than 100 square metres.
- (f) All installations for manufacture and assembly of motor vehicles or manufacture of motor-vehicle engines.
- (g) Shipyards, where the area would be 5 hectares or more, or with capacity for vessels of 10,000 tonnes or more (dead-weight).

- (h) All installations for the construction of aircraft with a seating capacity exceeding 10 passengers.
- (i) Manufacture of railway equipment, where the production area would be greater than 100 square metres.
- (j) Swaging by explosives, where the floor area would be greater than 100 square metres.
- (k) All installations for the roasting and sintering of metallic ores.

5. *Mineral Industry*

- (a) All coke ovens (dry coal distillation).
- (b) All installations for the manufacture of cement.
- (c) All installations for the production of asbestos and the manufacture of asbestos based products not included in Part I of this Schedule.
- (d) Installations for the manufacture of glass, including glass fibre, where the production capacity would exceed 5,000 tonnes per annum.
- (e) All installations for smelting mineral substances including the production of mineral fibres.
- (f) Manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain with a production capacity, exceeding 75 tonnes per day, and/or with a kiln capacity exceeding 4 cubic metres and with a setting density per kiln exceeding 300 kg per cubic metre.

6. *Chemical Industry (development not included in Part I of this Schedule)*

- (a) Installations for treatment of intermediate products and production of chemicals using a chemical or biological process.
- (b) All installations for production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides using a chemical or biological process.
- (c) Storage facilities for petroleum, where the storage capacity would exceed 50,000 tonnes.
- (d) Storage facilities for petrochemical and chemical products, where such facilities are isolated storage to which the provisions of Articles 9, 11 and 13 of Council Directive 96/82/EC apply.

7. *Food Industry*

- (a) Installations for manufacture of vegetable and animal oils and fats, where the capacity for processing raw materials would exceed 40 tonnes per day.
- (b) Installations for packing and canning of animal and vegetable products, where the capacity for processing raw materials would exceed 100 tonnes per day.
- (c) Installations for manufacture of dairy products, where the processing capacity would exceed 50 million gallons of milk equivalent per annum.
- (d) Installations for commercial brewing and distilling; installations for malting, where the production capacity would exceed 100,000 tonnes per annum.
- (e) Installations for confectionery and syrup manufacture, where the production capacity would exceed 100,000 tonnes per annum.
- (f) Installations for the slaughter of animals, where the daily capacity would exceed 1,500 units and where units have the following equivalents:

1 sheep	=	1 unit
1 pig	=	2 units
1 head of cattle	=	5 units

- (g) All industrial starch manufacturing installations.
- (h) All fish-meal and fish-oil factories.
- (i) All sugar factories.

8. *Textile, leather, wood and paper industries*

- (a) All installations for the production of paper and board not included in Part I of this Schedule.
- (b) Plants for the pre-treatment (operations such as washing, bleaching, mercerisation or dyeing of fibres or textiles), where the treatment capacity would exceed 10 tonnes per day.
- (c) Plants for the tanning of hides and skins, where the treatment capacity would exceed 100 skins per day.
- (b) Cellulose-processing and production installations, where the production capacity would exceed 10,000 tonnes per annum.

9. *Rubber Industry*

Installations for manufacture and treatment of elastomer based products, where the production capacity would exceed 10,000 tonnes per annum.

10. *Infrastructure projects*

- (a) Industrial estate development projects, where the area would exceed 15 hectares.
- (b)
 - (i) Construction of more than 500 dwelling units.
 - (ii) Construction of car-parks providing more than 400 spaces.
 - (iii) Construction of shopping centres with a gross floor space exceeding 10,000 square metres (calculated in accordance with article 100(2) of the Local Government (Planning and Development) Regulations, 1994 (S.I. No. 86 of 1994)).
 - (iv) Urban development (other than that referred to in sub-paragraphs (i) to (iii)) which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area, and 20 hectares elsewhere.

(In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)
- (c) All construction of railways and of intermodal transshipment facilities and of intermodal terminals not included in Part I of this Schedule which would exceed 15 hectares in area.
- (d) All airfields not included in Part I of this Schedule with paved runways which would exceed 800 metres in length.
- (e) New or extended harbours and port installations, including fishing harbours, not included in Part I of this Schedule, where the area, or additional area, of water enclosed would be 20 hectares or more, or which would involve the reclamation of 5 hectares or more of land, or which would involve the construction of additional quays exceeding 500 metres in length.
- (f)
 - (i) Inland waterway construction not included in Part I of this Schedule which would extend over a length exceeding 2 km.
 - (ii) Canalisation and flood relief works, where the immediate contributing sub-catchment of the proposed works (i.e. the difference between the contributing catchments at the upper and lower extent of the works) would exceed 1,000 hectares or where more than 20 hectares of wetland would be affected or where the length of river channel on which works are proposed would be greater than 2 km.
- (g) Dams and other installations not included in Part I of this Schedule which are designed to hold water or store it on a long-term basis, where the new or extended area of water impounded would be 30 hectares or more.

- (h) All tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport.
- (i) (I) Oil pipelines and associated installations not included in Part I of this Schedule, where the length of new pipeline would exceed 40 km.

(II) Gas pipelines and associated installations not included in Part I of this Schedule, where the design pressure would exceed 16 bar and the length of new pipeline would exceed 40 kilometres.
- (j) Installation of overground aqueducts which would have a diameter of 1,000 millimetres or more and a length of 500 metres or more.
- (b) Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dikes, moles, jetties and other sea defence works, where the length of coastline on which works would take place would exceed 1km, but excluding the maintenance and reconstruction of such works or works required for emergency purposes.
- (l) Groundwater abstraction and artificial groundwater recharge schemes not included in Part I of this Schedule where the average annual volume of water abstracted or recharged would exceed 2 million cubic metres.
- (m) Works for the transfer of water resources between river basins not included in Part I of this Schedule where the annual volume of water abstracted or recharged would exceed two million cubic metres.

11. Other projects

- (a) All permanent racing and test tracks for motorised vehicles.
- (b) Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part I of this Schedule.
- (c) Waste water treatment plants with a capacity greater than 10,000 population equivalent as defined in Article 2(6) of Directive 91/271/EEC not included in Part I of this Schedule.
- (d) Sludge-deposition sites where the expected annual deposition is 5,000 tonnes of sludge (wet).
- (e) Storage of scrap iron, including scrap vehicles where the site area would be greater than 5 hectares.
- (f) Test benches for engines, turbines or reactors where the floor area would exceed 500 square metres.
- (g) All installations for the manufacture of artificial mineral fibres.
- (h) All installations for the manufacture, packing, loading or placing in cartridges of

gunpowder and explosives or for the recovery or destruction of explosive substances.

- (i) All knackers' yards in built-up areas.

12. Tourism and Leisure

- (a) Ski-runs, ski-lifts and cable-cars where the length would exceed 500 metres and associated developments.
- (b) Sea water marinas where the number of berths would exceed 300 and fresh water marinas where the number of berths would exceed 100.
- (c) Holiday villages which would consist of more than 100 holiday homes outside built-up areas; hotel complexes outside built-up areas which would have an area of 20 ha or more or an accommodation capacity exceeding 300 bedrooms.
- (d) Permanent camp sites and caravan sites where the number of pitches would be greater than 100.
- (e) Theme parks occupying an area greater than 5 ha.

13. Changes, extensions, development and testing

- (a) Any change or extension of development which would—
 - (i) result in the development being of a class listed in Part I or paragraphs 1 to 12 of Part II of this Schedule, and
 - (ii) result in an increase in size greater than—
 - 25%, or
 - an amount equal to 50% of the appropriate threshold,
 whichever is the greater.
- (b) Projects in Part I undertaken exclusively or mainly for the development and testing of new methods or products and not used for more than two years.

(In this paragraph, an increase in size is calculated in terms of the unit of measure of the appropriate threshold.)

SECOND SCHEDULE

Information to be contained in an Environmental Impact Statement

Article 25

1.
 - (a) A description of the proposed development comprising information on the site, design and size of the proposed development.
 - (b) A description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects.
 - (c) The data required to identify and assess the main effects which the proposed development is likely to have on the environment.
 - (d) An outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects.
2. Further information, by way of explanation or amplification of the information referred to in paragraph 1, on the following matters—
 - (a)
 - (i) a description of the physical characteristics of the whole proposed development and the land-use requirements during the construction and operational phases;
 - (ii) a description of the main characteristics of the production processes, for instance, nature and quantity of the materials used;
 - (iii) an estimate, by type and quantity, of expected residues and emissions (including water, air and soil pollution, noise, vibration, light, heat and radiation) resulting from the operation of the proposed development;
 - (b) a description of the aspects of the environment likely to be significantly affected by the proposed development, including in particular:
 - human beings, fauna and flora,
 - soil, water, air, climatic factors and the landscape,
 - material assets, including the architectural and archaeological heritage, and the cultural heritage,
 - the inter-relationship between the above factors;
 - (c) a description of the likely significant effects (including direct, indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative) of the proposed development on the environment resulting from:
 - the existence of the proposed development,
 - the use of natural resources,

—the emission of pollutants, the creation of nuisances and the elimination of waste,

and a description of the forecasting methods used to assess the effects on the environment;

- (d) an indication of any difficulties (technical deficiencies or lack of know-how) encountered by the developer in compiling the required information.

THIRD SCHEDULE

Criteria specified for the purposes of article 27

Article 27

1. Characteristics of proposed development

The characteristics of proposed development, in particular:

- the size of the proposed development,
- the cumulation with other proposed development,
- the use of natural resources,
- the production of waste,
- pollution and nuisances,
- the risk of accidents, having regard to substances or technologies used.

2. Location of proposed development

The environmental sensitivity of geographical areas likely to be affected by proposed development, having regard in particular to:

- the existing land use,
- the relative abundance, quality and regenerative capacity of natural resources in the area,
- the absorption capacity of the natural environment, paying particular attention to the following areas:

(a) wetlands,

(b) coastal zones,

- (c) mountain and forest areas,
- (d) nature reserves and parks,
- (e) areas classified or protected under legislation, including special protection areas designated pursuant to Directives 79/409/EEC and 92/43/EEC,
- (f) areas in which the environmental quality standards laid down in legislation of the EU have already been exceeded,
- (g) densely populated areas,
- (h) landscapes of historical, cultural or archaeological significance.

3. Characteristics of potential impacts

The potential significant effects of proposed development in relation to criteria set out under paragraphs 1 and 2 above, and having regard in particular to:

- the extent of the impact (geographical area and size of the affected population),
- the transfrontier nature of the impact,
- the magnitude and complexity of the impact,
- the probability of the impact,
- the duration, frequency and reversibility of the impact.

GIVEN under the Official Seal of the Minister for the Environmental and Local Government, this 14th day of April, 1999.

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 transpose Directive 97/11/EC of 3 March, 1997 (O.J. No. 73/5, 14 March, 1997) relating to environmental impact assessment into Irish law. The Regulations contain amendments to the European Communities (Environmental Impact Assessment) Regulations, 1989 to 1998, and to provisions relating to environmental impact assessment in Local Government (Planning and Development) Acts, 1963 to 1998, and a number of other Acts. The Regulations come

into operation on 1 May, 1999.

The amendments enable a person who is required to submit an environmental impact statement in respect of a proposed development to request the competent authority concerned to provide an opinion on the information to be contained in the statement. They also re-state and extend certain existing provisions, including those relating to the classes of development which require an environmental impact statement, and the procedures to be followed in the case of a proposed development which would be located on an environmentally sensitive site or be likely to have significant effects on the environment in another Member State of the European Communities.

Further amendments to the planning system to give effect to Directive 97/11/EC are contained in the Local Government (Planning and Development) Regulations, 1999 (S.I. No. 92 of 1999).

(1) Nuclear power stations and other nuclear reactors cease to be such an installation when all nuclear fuel and other radioactively contaminated elements have been removed permanently from the installation site.

(2) For the purposes of this Directive “airport” means airports which comply with the definition in the 1944 Chicago Convention for setting up the International Civil Aviation Organisation (Annex IV).

(³)OJ No. L 194, 25 July, 1995, p.39. Directive as amended by Commission Decision 94/3/EC (OJ No. L5, 7 January, 1994, p.15).

(⁴)OJ No. L 337, 31 December, 1991, p.20. Directive as last amended by Directive 94/31/EC (OJ No. L 168, 2 July, 1994, p.28).

(⁵)OJ No. L 135, 30 June, 1991, p.40. Directive as last amended by the 1994 Act of Accession.