

S.I. No. 436/2004 — Planning and Development (Strategic Environmental Assessment) Regulations 2004



STATUTORY INSTRUMENTS.

S.I. No. 436 of 2004 .

PLANNING AND DEVELOPMENT (STRATEGIC ENVIRONMENTAL
ASSESSMENT) REGULATIONS 2004.

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ASSESSMENT) REGULATIONS 2004.

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S.I. No. 436 of 2004 .

PLANNING AND DEVELOPMENT (STRATEGIC ENVIRONMENTAL ASSESSMENT) REGULATIONS 2004.

The Minister for the Environment, Heritage and Local Government, in exercise of the powers conferred on him by sections 10(5), 13(12), 19(4), 23(3), 168(3) and 262 of the Planning and Development Act 2000 (No. 30 of 2000) hereby makes the following Regulations:

Citation

1. (1) These Regulations may be cited as the Planning and Development (Strategic Environmental Assessment) Regulations 2004.

(2) These Regulations and the Planning and Development Regulations 2001 to 2003 shall be construed as one and may be collectively cited as the Planning and Development Regulations 2001 to 2004.

Commencement

2. These Regulations shall come into operation on 21 July 2004.

Interpretation

3. In these Regulations:—

“the 2001 Regulations” mean the Planning and Development Regulations 2001 ([S.I. No. 600 of 2001](#)), as amended;

“the 2003 Regulations” mean the Planning and Development (Regional Planning Guidelines) Regulations 2003 ([S.I. No. 175 of 2003](#)).

Revocation

4. Article 6 of the 2003 Regulations is hereby revoked.

Amendment of
Article 3 of 2001
Regulations

5. Article 3 of the 2001 Regulations is hereby amended by—

(a) the insertion, after the definition of “EIS” in sub-article (3), of the following:—

“‘environmental assessment’ means the preparation of an environmental report, the carrying out of consultations, the taking into account of the environmental report and the results of the consultations in decision-making and the provision of information on the decision in accordance with these Regulations;”,

(b) the insertion, after the definition of “Major Accident Regulations” in sub-article (3), of the following:—

“‘Member State’ means any State, other than Ireland, which is a Member State of the European Communities;”,

(c) the insertion, after the definition of “peat extraction” in sub-article (3), of the following:—

“‘plan’ for the purposes of Schedules 2A and 2B, means, where the context requires, a development plan, a variation of a development plan, a local area plan (or an amendment thereto), regional planning guidelines or a planning scheme;”

and

(d) the insertion, after the definition of “regional assembly” in sub-article (3), of the following:—

“the SEA Directive’ means directive 2001/42/EC of the European Parliament and Council of 27 June 2001 (O.J. No. L 197, 21 July 2001) on the assessment of the effects of certain plans and programmes on the environment.”

Amendment of Article 3 of 2001 Regulations	6. Article 13 of the 2001 Regulations is hereby amended by the insertion after paragraph (o) of the following paragraph— “(oo) the Environmental Protection Agency.”
Amendment of Part 13 of 2001 Regulations (Development Plans)	7. Part 3 of the 2001 Regulations is hereby amended by the insertion after article 13 of the following articles— Determination of need for environmental assessment of development plan “13A. (1) This article applies to a development plan for an area the population of which is less than 10,000 persons. (2) Where a planning authority proposes to prepare a new development plan referred to in sub-article (1), the planning authority shall, prior to giving notice under section 11(1) of the Act, consider whether or not the implementation of a new development plan would be likely to have significant effects on the environment, taking account of relevant criteria set out in Schedule 2A. (3) Where the planning authority, following consideration under sub-article (2), determines that the implementation of a new development plan referred to in sub-article (1) would be likely to have significant effects on the environment, sub-articles (4) and (5) shall not apply. (4) (a) Where, following consideration under sub-article (2), a determination under sub-article (3) has not been made by the planning authority, the authority shall give notice in accordance with paragraph (b) to the following environmental authorities— (i) the Environmental Protection Agency, (ii) where it appears to the planning authority that the plan might have significant effects in relation to the architectural or archaeological heritage or to nature conservation, the Minister for the Environment, Heritage and Local Government, and (iii) where it appears to the planning authority that the plan might have significant effects on fisheries or the marine environment, the Minister for Communications, Marine and Natural Resources. (b) A notice under paragraph (a) shall— (i) state that the planning authority intends to review its existing development plan and to prepare a new development plan for its area. (ii) state that the planning authority must determine whether or not the implementation of a new development plan would be likely to have significant effects on the environment and that, in so doing, it must take account of relevant criteria set out in Schedule 2A, and

- (iii) indicate that a submission or observation in relation to whether or not the implementation of a new development plan would be likely to have significant effects on the environment may be made to the authority within a specified period which shall be not less than 4 weeks from the date of the notice.

(5) Following the period specified in sub-article 4(b)(iii), the planning authority shall determine whether or not the implementation of a new development plan would be likely to have significant effects on the environment, taking account of relevant criteria set out in Schedule 2A and any submission or observation received in response to a notice under sub-article (4).

(6) As soon as practicable after making a determination under sub-article (3) or (5), the planning authority shall—

- (a) make a copy of its decision, including, as appropriate, the reasons for not requiring an environmental assessment, available for public inspection at the offices of the planning authority during office hours, and
- (b) notify its decision to any environmental authority which was notified under sub-article (4).

Notice of review of development plan.

13B. Where—

- (a) the population of the area of a planning authority is 10,000 persons or more, or
- (b) where the planning authority determines under article 13A(3) or (5) that the implementation of a new development plan would be likely to have significant effects on the environment,
 - (i) the notice under section 11(1) of the Act shall, in addition to the requirements of section 11(2) of the Act, state that—
 - (I) the planning authority proposes to carry out an environmental assessment as part of the review of the existing development plan and the preparation of a new development plan, and
 - (II) for this purpose, the planning authority will prepare an environmental report of the likely significant effects on the environment of implementing the new plan, and
 - (ii) the provisions of articles 13C to 13J shall apply.

Requirement to prepare environmental report.

13C. A draft development plan prepared by the manager under section 11(5) of the Act shall be accompanied by or include an environmental report and any reference to a draft development plan in that subsection or in subsections (1), (2), (5) or (6) of section 12 of the Act shall be construed as also referring to the environmental report.

Scoping of environmental report.

13D. (1) The planning authority shall, as soon as practicable after the giving of notice under section 11(1) of the Act, give notice in

accordance with sub-article (2) to the environmental authorities specified in article 13A(4), as appropriate.

- (2) A notice under sub-article (1) shall—
- (a) state that, as part of the review of the existing development plan and the preparation of a new development plan, the planning authority will prepare an environmental report of the likely significant effects on the environment of implementing the plan.
 - (b) state that the environmental report is required to include the information that may reasonably be required, taking into account—
 - (i) current knowledge and methods of assessment,
 - (ii) the contents and level of detail in the plan,
 - (iii) the stage of the plan in the decision-making process, and
 - (iv) the extent to which certain matters are more appropriately assessed at different levels in the decision-making process in order to avoid duplication of environmental assessment, and
 - (c) indicate that a submission or observation in relation to the scope and level of detail of the information to be included in the environmental report may be made to the planning authority within a specified period which shall be not less than 4 weeks from the date of the notice.

Content of
environmental
report.

- 13E. (1) Subject to sub-article (2), an environmental report under article 13C shall identify, describe and evaluate the likely significant effects on the environment of implementing the plan, and reasonable alternatives taking account of the objectives and the geographical scope of the plan, and, for this purpose, the report shall—
- (a) contain the information specified in Schedule 2B.
 - (b) take account of any submission or observation received in response to a notice under article 13D(1), and
 - (c) be of sufficient quality to meet the requirements of these Regulations.

- (2) An environmental report shall include the information that may reasonably be required taking into account—
- (a) current knowledge and methods of assessment,
 - (b) the contents and level of detail in the plan,
 - (c) the stage of the plan in the decision-making process, and
 - (d) the extent to which certain matters are more appropriately assessed at different levels in the decision-making process in order to avoid duplication of environmental assessment.

Transboundary
environmental
effects.

- 13F. (1) In addition to the notification requirements under section 12(1) of the Act, a planning authority shall, following consultation with the Minister, forward a copy of the draft development plan and

associated environmental report to a Member State—

- (a) where the planning authority considers that implementation of the plan is likely to have significant effects on the environment of such Member State, or
- (b) where a Member State, likely to be significantly affected, so requests.

(2) Where a Member State is sent a copy of a draft plan and environmental report under sub-article (1) and it indicates that it wishes to enter into consultations before the adoption of the plan, the planning authority shall—

- (a) enter into consultations with the State concerned in relation to the likely transboundary environmental effects of implementing the plan, including, as appropriate, any likely transboundary environmental effects of implementing a proposed amendment under section 12(7) of the Act, and the measures envisaged to reduce or eliminate such effects, and
- (b) agree with the State concerned—
 - (i) a reasonable timeframe for the completion of the consultations, having regard to the timeframes for the making of a new development plan under section 12 of the Act, and
 - (ii) detailed arrangements to ensure that the authorities referred to in article 6(3) of the SEA Directive and the public referred to in article 6(4) of the SEA Directive in the Member State concerned are informed and given an opportunity to forward their opinion within a reasonable timeframe.

(3) The report required of the manager under subsection (4) or (8) of section 12 of the Act shall take account of any transboundary consultations under this article.

(4) Where, in response to a request to a Member State or otherwise, a planning authority receives from a Member State, either directly from the Member State or communicated by the Minister, a draft development or land-use plan and associated environmental report in relation to such State, or part thereof, the planning authority shall, as soon as may be following receipt of such plan and environmental report—

- (a) enter into consultations with the State concerned in relation to the likely transboundary environmental effects of implementing the plan and the measures envisaged to reduce or eliminate such effects.
- (b) agree with the State concerned—
 - (i) a reasonable timeframe for the completion of the consultations, having regard to any statutory or other timeframes for the adoption of the plan, and
 - (ii) detailed arrangements to ensure that the authorities referred to in article 6(3) of the SEA Directive and the public referred to in article 6(4) of the SEA Directive in the area likely to be significantly

affected are informed and given an opportunity to forward their opinion within a reasonable timeframe,

- (c) publish a notice in accordance with sub-article (5) in an approved newspaper, and
- (d) send notice of, and a copy of, the draft plan and associated environmental report to the environmental authorities specified in article 13A(4), as appropriate, indicating that a submission or observation in relation to the draft plan and associated environmental report may be made in writing to the authority within a specified period which shall be not less than 4 weeks from the date of the notice.

(5) A notice in accordance with sub-article (4)(c) shall state that—

- (a) a draft development or land-use plan and associated environmental report have been received from a Member State,
- (b) the draft plan has potential transboundary environmental effects,
- (c) a copy of the draft plan and associated environmental report are available for inspection at a stated place or places and at stated times during a specified period which shall be not less than 4 weeks from the date of the notice (and the copy shall be kept available for inspection accordingly), and
- (d) a submission or observation in relation to the draft plan and associated environmental report may be made in writing to the planning authority within the specified period.

(6) As soon as may be following receipt of any submission or observation in response to a notice under sub-article (4) or (5), or where the planning authority otherwise considers it necessary, the relevant planning authority shall consult with the State concerned in relation to the likely transboundary environmental effects of the draft plan and the measures envisaged to reduce or eliminate such effects.

Notice of material alteration of draft development plan.

13G. A notice under section 12(7) of the Act shall, as appropriate, in addition to the requirements of paragraph (b), state that information on the likely significant effects on the environment of implementing the proposed amendment will also be available for inspection and that a submission or observation in relation to such information made to the planning authority within the period stated in the notice will also be taken into consideration before the making of any amendment.

Decision-making

- 13H. The planning authority shall take account of
- (a) the environmental report,
 - (b) any submission or observation made to the planning authority in response to a notice under section 12(1) or (7) of the Act, and
 - (c) any consultations under article 13F,

during the preparation of the plan, and before its adoption.

Information on decision.

13I. (1) In addition to the requirement of section 12(12)(b) of the Act, a notice under section 12(12)(a) of the Act shall state that a statement is also available, summarising—

(a) how environmental considerations have been integrated into the plan,

(b) how

(i) the environmental report prepared pursuant to article 13C,

(ii) submissions and observations made to the planning authority in response to a notice under section 12(1) or (7) of the Act, and

(iii) any consultations under article 13F.

have been taken into account during the preparation of the plan.

(c) the reasons for choosing the plan, as adopted, in the light of the other reasonable alternatives dealt with, and

(d) the measures decided upon to monitor, in accordance with article 13J, the significant environmental effects of implementation of the plan.

(2) A planning authority shall, in addition to the requirements of paragraph (c) of section 12(12) of the Act—

(a) send a copy of the statement referred to in sub-article (1) to the bodies referred to in that paragraph, and

(b) send a copy of the statement and development plan to any Member State consulted under article 13F.

Monitoring

13J. (1) The planning authority shall monitor the significant environmental effects of implementation of the development plan in order, inter alia, to identify at an early stage unforeseen adverse effects and to be able to undertake appropriate remedial action and, for this purpose, existing monitoring arrangements may be used, if appropriate, with a view to avoiding duplication of monitoring.

(2) The report required of the manager under section 15(2) of the Act shall include information in relation to progress on, and the results of, monitoring the significant environmental effects of implementation of the development plan.

Determination of need for environmental assessment of variation of development plan.

13K. (1) Where a planning authority proposes to make a variation of a development plan under section 13 of the Act, it shall, before giving notice under section 13(2) of the Act, consider whether or not the proposed variation would be likely to have significant effects on the environment, taking into account of relevant criteria set out in Schedule 2A.

(2) Where the planning authority, following consideration under sub-article (1), determines that the proposed variation would be likely to have significant effects on the environment, sub-articles (3) and (4) shall not apply.

(3) (a) Where, following consideration under sub-article (1), a

determination under sub-article (2) has not been made by the planning authority, the authority shall give notice in accordance with paragraph (b) to the environmental authorities specified in article 13A(4), as appropriate.

- (b) A notice under paragraph (a) shall—
- (i) state that the planning authority proposes to make a variation of the development plan under section 13 of the Act,
 - (ii) state that the planning authority must determine whether or not the proposed variation would be likely to have significant effects on the environment and that, in so doing, it must take account of relevant criteria set out in Schedule 2A, and
 - (iii) indicate that a submission or observation in relation to whether or not the proposed variation would be likely to have significant effects on the environment may be made to the authority within a specified period which shall be not less than 3 weeks from the date of the notice.

(4) Following the period specified in sub-article 3(b)(iii), the planning authority shall determine whether or not the proposed variation of the development plan would be likely to have significant effects on the environment, taking account of relevant criteria set out in Schedule 2A and any submission or observation received in response to a notice under sub-article (3).

(5) As soon as practicable after making a determination under sub-article (2) or (4), the planning authority shall—

- (a) make a copy of its decision, including, as appropriate, the reasons for not requiring an environmental assessment, available for public inspection at the offices of the planning authority during office hours, and
- (b) notify its decision to any environmental authority which was notified under sub-article (3).

(6) The provisions of articles 13L to 13R shall only apply where a planning authority determines under this article that a proposed variation would be likely to have significant effects on the environment.

Requirement to prepare environmental report.

13L. A proposed variation of a development plan under section 13 of the Act shall be accompanied by or include an environmental report and any reference to a proposed variation in subsections (2), (3)(b) and (c), (5) and (6) of Section 13 of the Act shall be construed as also referring to the environmental report.

Scoping of environmental report.

13M. (1) Before giving notice under section 13(2) of the Act, the planning authority shall give notice in accordance with sub-article (2) to the environmental authorities specified in article 13A(4), as appropriate.

- (2) A notice under sub-article (1) shall—
- (a) state that the planning authority proposes to carry out an

environmental assessment of the proposed variation of the development plan.

- (b) state that, for this purpose, the planning authority will prepare an environmental report of the likely significant effects on the environment of implementing the proposed variation,
- (c) state that the environmental report is required to include the information that may reasonably be required, taking into account—
 - (i) current knowledge and methods of assessment,
 - (ii) the contents and level of detail of the proposed variation,
 - (iii) the stage of the proposed variation in the decision-making process, and
 - (iv) the extent to which certain matters are more appropriately assessed at different levels in the decision-making process in order to avoid duplication of environmental assessment, and
- (d) indicate that a submission or observation in relation to the scope and level of detail of the information to be included in the environmental report may be made to the planning authority within a specified period which shall be not less than 3 weeks from the date of the notice.

Content of
environmental
report.

13N. (1) Subject to sub-article (2), an environmental report under article 13L shall identify, describe and evaluate the likely significant effects on the environment of implementing the proposed variation and reasonable alternatives taking account of the objectives and the geographical scope of the proposed variation and, for this purpose, the report shall—

- (a) contain the information specified in Schedule 2B,
- (b) take account of any submission or observation received in response to a notice under article 13M(1), and
- (c) be of sufficient quality to meet the requirements of these Regulations.

(2) An environmental report shall include the information that may reasonably be required taking into account—

- (a) current knowledge and methods of assessment,
- (b) the contents and level of detail of the proposed variation,
- (c) the stage of the proposed variation in the decision-making process, and
- (d) the extent to which certain matters are more appropriately assessed at different levels in the decision-making process in order to avoid duplication of environmental assessment.

Transboundary
environmental
effects.

13O. (1) In addition to the notification requirements under section 13(2) of the Act, a planning authority shall, following consultation with the Minister, forward a copy of the proposed variation and

associated environmental report to a Member State—

- (a) where the planning authority considers that implementation of the proposed variation is likely to have significant effects on the environment of such Member State, or
- (b) where a Member State, likely to be significantly affected, so requests.

(2) Where a Member State is sent a copy of a proposed variation and environmental report under sub-article (1) and it indicates that it wishes to enter into consultations before the adoption of the proposed variation, the planning authority shall—

- (a) enter into consultations with the State concerned in relation to the likely transboundary environmental effects of implementing the proposed variation and the measures envisaged to reduce or eliminate such effects, and
- (b) agree with the State concerned—
 - (i) a reasonable timeframe for the completion of the consultations, having regard to the timeframes for the making of a variation of a development plan under section 13 of the Act, and
 - (ii) detailed arrangements to ensure that the authorities referred to in article 6(3) of the SEA Directive and the public referred to in article 6(4) of the SEA Directive in the Member State concerned are informed and given an opportunity to forward their opinion within a reasonable timeframe.

(3) The report required of the manager under section 13(4) of the Act shall take account of any transboundary consultations under this article.

(4) Where, in response to a request to a Member State or otherwise, the planning authority receives from a Member State, either directly from the Member State or communicated by the Minister, a proposed variation of a development or land-use plan and associated environmental report in relation to such State, or part thereof, the planning authority shall, as soon as may be following receipt of such variation and environmental report—

- (a) enter into consultations with the State concerned in relation to the likely transboundary environmental effects of implementing the variation and the measures envisaged to reduce or eliminate such effects,
- (b) agree with the State concerned—
 - (i) a reasonable timeframe for the completion of the consultations, having regard to any statutory or other timeframes for the making of the variation, and
 - (ii) detailed arrangements to ensure that the authorities referred to in article 6(3) of the SEA Directive and the public referred to in article 6(4) of the SEA Directive in the area likely to be significantly affected are informed and given an opportunity to forward their opinion within a reasonable timeframe,
- (c) publish a notice in accordance with sub-article (5) in an

approved newspaper, and

- (d) send notice of, and a copy of, the proposed variation and associated environmental report to the environmental authorities specified in article 13A(4), as appropriate, indicating that a submission or observation in relation to the proposed variation and associated environmental report may be made in writing to the authority within a specified period which shall be not less than 4 weeks from the date of the notice.

(5) A notice in accordance with sub-article (4)(c) shall state that—

- (a) a proposed variation of a development or land-use plan and associated environmental report have been received from a Member State,
- (b) the proposed variation has potential transboundary environmental effects,
- (c) a copy of the proposed variation and associated environmental report are available for inspection at a stated place or places and at stated times during a specified period which shall be not less than 4 weeks from the date of the notice (and the copy shall be kept available for inspection accordingly), and
- (d) a submission or observation in relation to the proposed variation and associated environmental report may be made in writing to the authority within the specified period.

(6) As soon as may be following receipt of any submission or observation in response to a notice under sub-article (4) or (5), or where the planning authority otherwise considers it necessary, the relevant planning authority shall consult with the State concerned in relation to the likely transboundary environmental effects of the proposed variation and the measures envisaged to reduce or eliminate such effects.

Decision-making.

13P. The planning authority shall take account of—

- (a) the environment report,
- (b) any submission or observation made to the planning authority in response to a notice under section 13(2) of the Act, and
- (c) any consultations under article 13O.

during the making of the variation, and before its adoption.

Information on decision.

13Q. (1) In addition to the requirement of section 13(8)(b) of the Act, a notice under section 13(8)(a) of the Act shall state that a statement is also available summarising—

- (a) how environmental considerations have been integrated into the variation,
- (b) how
 - (i) the environmental report prepared pursuant to article 13L,

- (ii) submissions and observations made to the planning authority in response to a notice under section 13(2) of the Act, and
- (iii) any consultations under article 13O, have been taken into account during the making of the variation,
- (c) the reasons for choosing the variation, as adopted, in the light of the other reasonable alternatives dealt with, and
- (d) the measures decided upon to monitor, in accordance with article 13R, the significant environmental effects of implementation of the variation.

(2) A planning authority shall, in addition to the requirements of paragraph (c) of section 13(8) of the Act—

- (a) send a copy of the statement referred to in sub-article (1) to the bodies referred to in that paragraph, and
- (b) send a copy of the statement and the variation to any Member State consulted under article 13O.

Monitoring.

13R. (1) The planning authority shall monitor the significant environmental effects of implementation of the variation of a development plan in order, inter alia, to identify at an early stage unforeseen adverse effects and to be able to undertake appropriate remedial action and, for this purpose, existing monitoring arrangements may be used, if appropriate, with a view to avoiding duplication of monitoring.

(2) Monitoring required under sub-article (1) shall, as appropriate, be incorporated as part of any monitoring under article 13J.”

Amendment of Part 3 of 2001 Regulations (Local Area Plans)

8. Part 3 of the 2001 Regulations is hereby amended by the insertion after article 14 of the following articles:

Determination of need for environmental assessment of local area plan.

“14A. (1) This article applies to a local area plan or an amendment to a local area plan for an area the population of which is less than 10,000 persons.

(2) Where a planning authority proposes to prepare or amend a local area plan referred to in sub-article (1), the planning authority shall, prior to giving notice under section 20(3) of the Act, consider whether or not implementation of the local area plan or amended plan would be likely to have significant effects on the environment, taking account of relevant criteria set out in Schedule 2A.

(3) Where the planning authority, following consideration under sub-article (2), determines that implementation of a local area plan or amended plan referred to in sub-article (1) would be likely to have significant effects on the environment, sub-articles (4) and (5) shall not apply.

(4) (a) Where, following consideration under sub-article (2), a

determination under sub-article (3) has not been made by the planning authority, the authority shall give notice in accordance with paragraph (b) to the environmental authorities specified in article 13A(4), as appropriate.

- (b) A notice under paragraph (a) shall—
- (i) state that the planning authority intends to prepare or amend a local area plan.
 - (ii) state that the planning authority must determine whether or not implementation of the local area plan or amended plan would be likely to have significant effects on the environment and that, in so doing, it must take account of relevant criteria set out in Schedule 2A, and
 - (iii) indicate that a submission or observation in relation to whether or not implementation of the local area plan or amended plan would be likely to have significant effects on the environment may be made to the authority within a specified period which shall be not less than 4 weeks from the date of the notice.

(5) Following the period specified in sub-article 4(b)(iii), the planning authority shall determine whether or not implementation of the local area plan or amended plan would be likely to have significant effects on the environment, taking account of relevant criteria set out in Schedule 2A and any submission or observation received in response to a notice under sub-article (4).

(6) As soon as practicable after making a determination under sub-article (3) or (5), the planning authority shall—

- (a) make a copy of its decision, including, as appropriate, the reasons for not requiring an environmental assessment, available for public inspection at the offices of the planning authority during office hours, and
- (b) notify its decision to any environmental authority which was notified under sub-article (4).

Requirement to prepare environmental report.

- 14B. Where—
- (a) the population of the area of a local area plan is 10,000 persons or more, or
 - (b) where the planning authority determines under article 14A(3) or (5) that the implementation of a local area plan or amended plan would be likely to have significant effects on the environment,

the planning authority shall, prior to giving notice under section 20(3) of the Act, prepare an environmental report of the likely significant effects on the environment of implementing the local area plan or amended plan, and the provisions of articles 14C to 14J shall apply.

Scoping of environmental report.

14C. (1) The planning authority shall, prior to giving notice under section 20(3) of the Act, give notice in accordance with sub-article (2) to the environmental authorities specified in article 13A(4), as

appropriate.

(2) A notice under sub-article (1) shall—

- (a) state that, as part of the preparation or amendment of the local area plan, the planning authority will prepare an environmental report of the likely significant effects on the environment of implementing the plan or amended plan,
- (b) state that the environmental report is required to include the information that may reasonably be required, taking into account—
 - (i) current knowledge and methods of assessment,
 - (ii) the contents and level of detail in the plan or amended plan
 - (iii) the stage of the plan or amended plan in the decision-making process, and
 - (iv) the extent to which certain matters are more appropriately assessed at different levels in the decision-making process in order to avoid duplication of environmental assessment, and
- (c) indicate that a submission or observation in relation to the scope and level of detail of the information to be included in the environmental report may be made to the planning authority within a specified period which shall be not less than 4 weeks from the date of the notice.

Content of
environmental
report.

14D. (1) Subject to sub-article (2), an environmental report under article 14B shall identify, describe and evaluate the likely significant effects on the environment of implementing the plan or amended plan, and reasonable alternatives taking account of the objectives and the geographical scope of the plan or amended plan, and, for this purpose, the report shall—

- (a) contain the information specified in Schedule 2B.
- (b) take account of any submission or observation received in response to a notice under article 14C(1), and
- (c) be of sufficient quality to meet the requirements of these Regulations.

(2) An environmental report shall include the information that may reasonably be required taking into account—

- (a) current knowledge and methods of assessment,
- (b) the contents and level of detail in the plan or amended plan,
- (c) the stage of the plan or amended plan in the decision-making process, and
- (d) the extent to which certain matters are more appropriately assessed at different levels in the decision-making process in order to avoid duplication of environmental assessment.

Notice of local area

14E. (1) The documentation made available under section 20(3) of

plan and
environmental
report.

the Act shall be accompanied by or include an environmental report and the notice under section 20(3)(a) of the Act shall, in addition to the requirements of section 20(3)(b) of the Act, state that the planning authority has prepared an environmental report of the likely significant effects on the environment of implementing the local area plan or amended plan and that submissions or observations in respect of the environmental report made to the planning authority within the period specified in the notice will also be taken into consideration.

(2) A notice under section 20(3)(a) of the Act shall, in addition to the authorities specified in article 14, be sent to the environmental authorities specified in article 13A(4), as appropriate.

Transboundary
environmental
effects.

14F. (1) In addition to the notification requirements under section 20(3) of the Act, the planning authority shall, following consultation with the Minister, forward a copy of the proposal to make or amend a local area plan, and, where appropriate, the proposed local area plan or proposed amended plan, and associated environmental report to a Member State—

- (a) where the planning authority considers that implementation of the plan or amended plan is likely to have significant effects on the environment of such Member State, or
- (b) where a Member State, likely to be significantly affected, so requests.

(2) Where a Member State is sent documentation under sub-article (1) and it indicates that it wishes to enter into consultations before the making or amending of the plan or amended plan, the planning authority shall—

- (a) enter into consultations with the State concerned in relation to the likely transboundary environmental effects of implementing the plan or amended plan, including, as appropriate, any likely transboundary environmental effects of implementing a proposed variation or modification under paragraph (e) of section 20(3) of the Act, and the measures envisaged to reduce or eliminate such effects, and
- (b) agree with the State concerned—
 - (i) a reasonable timeframe for the completion of the consultations, having regard to the timeframes for the making or amending of a local area plan under section 20 of the Act, and
 - (ii) detailed arrangements to ensure that the authorities referred to in article 6(3) of the SEA Directive and the public referred to in article 6(4) of the SEA Directive in the Member State concerned are informed and given an opportunity to forward their opinion within a reasonable timeframe.

(3) The report required of the manager under paragraphs (c) or (e) of section 20(3) of the Act shall take account of any transboundary consultations under this article.

Notice of material

14G. A notice under section 20(3)(e) of the Act shall, as

alteration of local area plan.	appropriate, in addition to the requirements of sub-paragraph (ii), state that information on the likely significant effects on the environment of implementing the proposed variation or modification will also be available for inspection and that a submission or observation in relation to such information made to the planning authority within the period stated in the notice will also be taken into consideration before the making of any variation or modification.
Decision-making.	14H. The planning authority shall take account of (a) the environmental report, (b) any submission or observation made to the planning authority in response to a notice under section 20(3) of the Act, and (c) any consultations under article 14F. during the preparation or amendment of the plan, and before its adoption.
Information on decision	14I. (1) As soon as may be following the making or amending of a local area plan, the planning authority shall prepare a statement summarising— (a) how environmental considerations have been integrated into the plan. (b) how (i) the environmental report prepared pursuant to article 14B. (ii) submissions and observations made to the planning authority in response to a notice under section 20(3) of the Act, and (iii) any consultations under article 14F, have been taken into account during the preparation or amendment of the plan, (c) the reasons for choosing the plan or amendment, as adopted, in the light of the other reasonable alternatives dealt with, and (d) the measures decided upon to monitor, in accordance with article 14J, the significant environmental effects of implementation of the plan or amended plan. (2) A planning authority shall, as soon as may be following the making or amending of a local area plan— (i) publish notice, in accordance with sub-article (3), of the making or amending of a local area plan in at least one newspaper with a sufficiently large circulation in the area covered by the local area plan, (ii) in addition to the requirements of section 20(5) of the Act, send a copy of the statement referred to in sub-article (1) to the bodies referred to in section 20(5) of the Act, and (iii) send a copy of the plan and the statement referred to in sub-article (1) to the authorities referred to in article

13A(4), as appropriate, and to any Member State consulted under article 14F, as appropriate.

(3) A notice under sub-article (2)(i) shall state that a copy of the local area plan and the statement referred to in sub-article (1) are available for inspection at a stated place or places (and a copy shall be kept available for inspection accordingly).

Monitoring.

14J. (1) The planning authority shall monitor the significant environmental effects of implementation of the local area plan in order, inter alia, to identify at an early stage unforeseen adverse effects and to be able to undertake appropriate remedial action and, for this purpose, existing monitoring arrangements may be used, if appropriate, with a view to avoiding duplication of monitoring.

(2) Monitoring required under sub-article (1) shall, as appropriate, be incorporated as part of any monitoring under article 13J.”

Amendment of
Article 15 of 2001
Regulations

9. Article 15 of the 2001 Regulations is hereby amended by the insertion after paragraph (p) of the following paragraph—

“(pp) the Environmental Protection Agency.”

Amendment of Part
3 of 2001
Regulations
(Regional Planning
Guidelines)

10. Part 3 of the 2001 Regulations is hereby amended by the insertion after article 15 of the following articles:

Consultation
regarding regional
planning guidelines.

“15A. A notice under section 24(1) of the Act shall, in addition to the requirements of section 24(2) of the Act, state that—

- (a) the regional authority proposes to carry out an environmental assessment as part of the making of regional planning guidelines, and
- (b) for this purpose, the regional authority will prepare an environmental report of the likely significant effects on the environment of implementing the regional planning guidelines.

Requirement to
prepare
environmental
report.

15B. Draft regional planning guidelines prepared by the regional authority under section 24(4) of the Act shall be accompanied by or include an environmental report and any reference to draft guidelines in subsections (4)(a) and (b) or (5) of section 24 of the Act shall be construed as also referring to the environmental report.

Scoping of
environmental
report.

15C. (1) As soon as practicable after the giving of notice under section 24(1) of the Act, the regional authority shall give notice in accordance with sub-article (2) to the environmental authorities specified in article 13A(4), as appropriate.

- (2) A notice under sub-article (1) shall
- (a) state that, as part of the making of regional planning guidelines, the regional authority will prepare an environmental report of the likely significant effects on the environment of implementing the guidelines,
 - (b) state that the environmental report is required to include the information that may reasonably be required, taking into account—
 - (i) current knowledge and methods of assessment,
 - (ii) the contents and level of detail of the guidelines,
 - (iii) the stage of the guidelines in the decision-making process, and
 - (iv) the extent to which certain matters are more appropriately assessed at different levels in the decision-making process in order to avoid duplication of environmental assessment, and
 - (c) indicate that a submission or observation in relation to the scope and level of detail of the information to be included in the environmental report may be made to the regional authority within a specified period which shall be not less than 4 weeks from the date of the notice.

Content of
environmental
report.

- 15D. (1) Subject to sub-article (2), an environmental report under article 15B shall identify, describe and evaluate the likely significant effects on the environment of implementing the regional planning guidelines and reasonable alternatives taking account of the objectives and the geographical scope of the guidelines and, for this purpose, the report shall—
- (a) contain the information specified in Schedule 2B.
 - (b) take account of any submission or observation received in response to a notice under article 15C(1), and
 - (c) be of sufficient quality to meet the requirements of these Regulations.

- (2) An environmental report shall include the information that may reasonably be required taking into account—
- (a) current knowledge and methods of assessment,
 - (b) the contents and level of detail of the regional planning guidelines,
 - (c) the stage of the guidelines in the decision-making process, and
 - (d) the extent to which certain matters are more appropriately assessed at different levels in the decision-making process in order to avoid duplication of environmental assessment.

Transboundary
environmental
effects.

- 15E. (1) In addition to the notification requirements under section 24(4) of the Act, a regional authority shall, following consultation with the Minister, forward a copy of the draft guidelines and associated environmental report to a Member State—

- (a) where the regional authority considers that implementation of the guidelines is likely to have significant effects on the environment of such Member State, or
- (b) where a Member State, likely to be significantly affected, so requests.

(2) Where a Member State is sent a copy of draft regional planning guidelines and environmental report under sub-article (1) and it indicates that it wishes to enter into consultations before the adoption of the guidelines, the regional authority shall—

- (a) enter into consultation with the State concerned in relation to the likely transboundary environmental effects of implementing the guidelines and the measures envisaged to reduce or eliminate such effects, and
- (b) agree with the State concerned—
 - (i) a reasonable timeframe for the completion of the consultations, having regard to the timeframes for the making of guidelines under sections 24 and 26 of the Act, and
 - (ii) detailed arrangements to ensure that the authorities referred to in article 6(3) of the SEA Directive and the public referred to in article 6(4) of the SEA Directive in the Member State concerned are informed and given an opportunity to forward their opinion within a reasonable timeframe.

(3) A report under article 7(1) or (2) of the Planning and Development (Regional Planning Guidelines) Regulations 2003 ([S.I. No. 175 of 2003](#)) shall take account of any transboundary consultations under this article.

(4) Where, in response to a request to a Member State or otherwise, a regional authority receives from a Member State, either directly from the Member State or communicated by the Minister, draft regional planning guidelines or a draft regional land-use plan and associated environmental report in relation to such State, or part thereof, the regional authority shall, as soon as may be following receipt of such guidelines or plan and environmental report,

- (a) enter into consultations with the State concerned in relation to the likely transboundary environmental effects of implementing the guidelines or land-use plan and the measures envisaged to reduce or eliminate such effects,
- (b) agree with the State concerned—
 - (i) a reasonable timeframe for the completion of the consultations, having regard to any statutory or other timeframes for the adoption of the guidelines or land-use plan, and
 - (ii) detailed arrangements to ensure that the authorities referred to in article 6(3) of the SEA Directive and the public referred to in article 6(4) of the SEA Directive in the area likely to be significantly affected are informed and given an opportunity to forward their opinion within a reasonable timeframe,

- (c) publish a notice in accordance with sub-article (5) in at least one newspaper which the regional authority considers has a sufficiently large circulation in its area, and
- (d) send notice of, and a copy of, the draft regional planning guidelines or draft regional land-use plan and associated environmental report to the environmental authorities specified in article 13A(4), as appropriate, indicating that a submission or observation in relation to the guidelines or land-use plan and associated environmental report may be made in writing to the authority within a specified period which shall be not less than 4 weeks from the date of the notice.

(5) A notice in accordance with a sub-article (4)(c) shall state that

- (a) draft regional planning guidelines or a draft regional land-use plan and associated environmental report have been received from a Member State.
- (b) the draft guidelines or land-use plan have potential transboundary effects,
- (c) a copy of the draft guidelines or land-use plan and associated environmental report are available for inspection at a stated place or places and at stated times during a specified period which shall be not less than 4 weeks from the date of the notice (and the copy shall be kept available for inspection accordingly), and
- (d) a submission or observation in relation to the draft guidelines or land-use plan and associated environmental report may be made in writing to the authority within the specified period.

(6) As soon as may be following receipt of any submission or observation in response to a notice under sub-article (4) or (5), or where the regional authority otherwise considers it necessary, the relevant regional authority shall consult with the State concerned in relation to the likely transboundary environmental effects of the draft guidelines or land-use plan and the measures envisaged to reduce or eliminate such effects.

Decision-making.

15F. The regional authority shall take account of—

- (a) the environmental report,
- (b) any submission or observation made to the regional authority in response to a notice under section 24(4) of the Act, and
- (c) any consultations under article 15E,

during the preparation of the guidelines, and before their adoption.

Information on decision.

15G. (1) In addition to the requirements of section 24(7)(b) of the Act, a notice under section 24(7)(a) of the Act shall state that a statement is also available summarising—

- (a) how environmental considerations have been integrated into the guidelines,

- (b) how
 - (i) the environmental report prepared pursuant to article 15B,
 - (ii) submissions and observations made to the regional authority in response to a notice under section 24(4) of the Act, and
 - (iii) any consultations under article 15E,have been taken into account during the preparation of the guidelines.
- (c) the reasons for choosing the guidelines, as adopted, in the light of the other reasonable alternatives dealt with, and
- (d) the measures decided upon to monitor, in accordance with article 15H, the significant environmental effects of implementation of the guidelines.

(2) In addition to the requirements of section 24(7) of the Act, the regional authority shall send a copy of the regional planning guidelines and the statement referred to in sub-article (1) to—

- (a) the authorities specified in article 13A(4), as appropriate, and
- (b) any Member State consulted under article 15E.

Monitoring. 15H. Where the provisions of articles 15A to 15G apply, the regional authority shall monitor the significant environmental effects of implementation of the regional planning guidelines in order, inter alia, to identify at an early stage unforeseen adverse effects and to be able to undertake appropriate remedial action and, for this purpose, existing monitoring arrangements may be used, if appropriate, with a view to avoiding duplication of monitoring.”

Amendment of Part 14 of 2001 Regulations (Planning Schemes) 11. Part 14 of the 2001 Regulations is hereby amended by the insertion after article 179 of the following articles:

Planning scheme for strategic development zones. “179A. A draft planning scheme under section 168(1) of the Act shall be accompanied by or include an environmental report and any reference to a draft planning scheme in subsection (1), (2) or (4)(a) of section 169 of the Act shall be construed as also referring to the environmental report.

Scoping of environmental report. 179B. (1) Prior to the preparation of an environmental report under article 179A, the relevant development agency shall give notice in accordance with sub-article (2) to the environmental authorities specified in article 13A(4), as appropriate.

(2) A notice under sub-article (1) shall—

- (a) state that, as part of the preparation of a draft planning scheme, an environmental report will be prepared of the

likely significant effects on the environment of implementing the scheme,

- (b) state that the environmental report is required to include the information that may reasonably be required, taking into account—
 - (i) current knowledge and methods of assessment,
 - (ii) the contents and level of detail in the planning scheme,
 - (iii) the stage of the planning scheme in the decision-making process, and
 - (iv) the extent to which certain matters are more appropriately assessed at different levels in the decision-making process in order to avoid duplication of environmental assessment, and
- (c) indicate that a submission or observation in relation to the scope and level of detail of the information to be included in the environmental report may be made to the relevant development agency within a specified period which shall be not less than 4 weeks from the date of the notice.

Content of
environmental
report.

179C. (1) Subject to sub-article (2), an environmental report under article 179A shall identify, describe and evaluate the likely significant effects on the environment of implementing the planning scheme and reasonable alternatives taking account of the objectives and the geographical scope of the scheme and, for this purpose, the report shall—

- (a) contain the information specified in Schedule 2B,
- (b) take account of any submission or observation received in response to a notice under article 179B(1), and
- (c) be of sufficient quality to meet the requirements of these Regulations.

(2) An environmental report shall include the information that may reasonably be required taking into account—

- (a) current knowledge and methods of assessment,
- (b) the contents and level of detail in the planning scheme,
- (c) the stage of the planning scheme in the decision-making process, and
- (d) the extent to which certain matters are more appropriately assessed at different levels in the decision-making process in order to avoid duplication of environmental assessment.

Notice of draft
planning scheme and
environmental
report.

179D. A notice under section 169(1) of the Act shall, in addition to the authorities specified in article 179, be sent to the authorities specified in article 13A(4), as appropriate.

Transboundary
environmental

179E. (1) In addition to the notification requirements under section 169(1) of the Act, a planning authority shall, following consultation

effects.

with the Minister, forward a copy of the draft planning scheme and associated environmental report to a Member State—

- (a) where the planning authority considers that implementation of the planning scheme is likely to have significant effects on the environment of such Member State, or
- (b) where a Member State, likely to be significantly affected, so requests.

(2) Where a Member State is sent a copy of a draft planning scheme and environmental report under sub-article (1) and it indicates that it wishes to enter into consultations before the adoption of the scheme, the planning authority shall—

- (a) enter into consultations with the State concerned in relation to the likely transboundary environmental effects of implementing the scheme and the measures envisaged to reduce or eliminate such effects, and
- (b) agree with the State concerned—
 - (i) a reasonable timeframe for the completion of the consultations, having regard to the timeframes for the making of a planning scheme under section 169 of the Act, and
 - (ii) detailed arrangements to ensure that the authorities referred to in article 6(3) of the SEA Directive and the public referred to in article 6(4) of the SEA Directive in the Member State concerned are informed and given an opportunity to forward their opinion within a reasonable timeframe.

(3) The report required of the manager under section 169(3) of the Act shall take account of any transboundary consultations under this article.

Decision-making.

179F. The planning authority shall take account of—

- (a) the environmental report,
- (b) any submission or observation made to the planning authority in response to a notice under section 169(1) of the Act, and
- (c) any consultations under article 179E,

during the authority's consideration of the draft planning scheme, and before its adoption.

Information on decision.

179G. (1) In addition to the requirements of section 169(5)(b) of the Act, a notice under section 169(5)(a) of the Act shall state that a statement is also available summarising—

- (a) how environmental considerations have been integrated into the scheme.
- (b) how—
 - (i) the environmental report prepared pursuant to article 179A.
 - (ii) submissions and observations made to the planning

authority in response to a notice under section 169(1) of the Act, and

(iii) any consultations under article 179E,

have been taken into account during the planning authority's consideration of the draft scheme,

(c) the reasons for choosing the scheme, as adopted, in the light of the other reasonable alternatives dealt with, and

(d) the measures decided upon to monitor, in accordance with article 179J, the significant environmental effects of implementation of the scheme.

(2) In addition to the requirements of paragraph (a) of section 169(5) of the Act, the planning authority shall give notice under that paragraph to the authorities specified in article

13A(4), as appropriate, and to any Member State consulted under article 179E.

Appeal to the Board. 179H. Where an appeal is taken under section 169(6) of the Act, the Board shall, in addition to the requirements of section 169(8) of the Act, take account of—

(a) the environmental report prepared pursuant to article 179A,

(b) any submission or observation made to the planning authority in response to a notice under section 169(1) of the Act, and

(c) any consultations under article 179E,

during the Board's consideration of the scheme.

Information on decision.

179I. (1) Where the Board, under section 169(7)(a) of the Act, approves the making of a planning scheme without modification—

(a) the notice required under section 169(7)(b) of the Act shall indicate that the statement referred to in article 179G(1) is also available for inspection, and

(b) the planning authority shall give notice of the approval of the scheme, and the availability for inspection of the statement referred to in article 179G(1), to the authorities specified in article 13A(4), as appropriate, and to any Member State consulted under article 179E.

(2) Where the Board, under section 169(7)(a) of the Act, approves the making of a planning scheme with modifications, it shall indicate in its decision any amendments required to the statement referred to in article 179G(1) arising from its modification of the scheme, and shall direct the planning authority to amend the statement accordingly.

(3) Where sub-article (2) applies—

(a) the notice required under section 169(7)(b) of the Act shall indicate that the statement referred to in article 179G(1), as amended on foot of any direction under sub-article (2), where appropriate, is also available for inspection, and

(b) the planning authority shall give notice of the approval of the scheme, and the availability for inspection of the statement referred to in article 179G(1), as amended on foot of any direction under sub-article (2), where appropriate, to the authorities specified in article 13A(4), as appropriate, and to any Member State consulted under article 179E.

Monitoring.

179J. Where the provisions of articles 179A to 179I apply, the relevant development agency or, where an agreement referred to in section 167 of the Act has been made, the relevant development agency and any person who is a party to the agreement, shall monitor the significant environmental effects of implementation of the planning scheme in order, inter alia, to identify at an early stage unforeseen adverse effects and to be able to undertake appropriate remedial action and, for this purpose, existing monitoring arrangements may be used, if appropriate, with a view to avoiding duplication of monitoring.”

Addition of
Schedules to 2001
Regulations

12. The 2001 Regulations are hereby amended by the insertion after Schedule 2 of the following Schedules:

“SCHEDULE 2A

Criteria for determining whether a plan is likely to have significant effects on the environment

Articles 13A, 13K and 14A

1. The characteristics of the plan having regard, in particular, to:
 - the degree to which the plan sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources,
 - the degree to which the plan influences other plans, including those in a hierarchy,
 - the relevance of the plan for the integration of environmental considerations in particular with a view to promoting sustainable development,
 - environmental problems relevant to the plan,
 - the relevance of the plan for the implementation of European Union legislation on the environment (e.g. plans linked to waste-management or water protection).
2. Characteristics of the effects and of the area likely to be affected, having

regard, in particular, to:

- the probability, duration, frequency and reversibility of the effects,
- the cumulative nature of the effects,
- the transboundary nature of the effects,
- the risks to human health or the environment (e.g. due to accidents),
- the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected).
- the value and vulnerability of the area likely to be affected due to:
 - (a) special natural characteristics or cultural heritage,
 - (b) exceeded environmental quality standards or limit values,
 - (c) intensive land-use,
- the effects on areas or landscapes which have a recognised national, European Union or international protection status.

SCHEDULE 2B

Information to be contained in an environmental report

Articles 13E, 13N, 14D, 15D and 179C

The following information shall be included in an environmental report—

- (a) an outline of the contents and main objectives of the plan and relationship with other relevant plans;
- (b) the relevant aspects of the current state of the environment and the likely evolution thereof without implementation of the plan;
- (c) the environmental characteristics of areas likely to be significantly affected;
- (d) any existing environmental problems which are relevant to the plan including, in particular, those relating to any areas of a particular environmental importance, such as areas designated pursuant to the Birds Directive or Habitats Directive;
- (e) the environmental protection objectives, established at international,

European Union or national level, which are relevant to the plan and the way those objectives and any environmental considerations have been taken into account during its preparation;

- (f) the likely significant effects¹ on the environment, including on issues such as biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage, landscape and the interrelationship between the above factors;
- (g) the measures envisaged to prevent, reduce and as fully as possible offset any significant adverse effects on the environment of implementing the plan;
- (h) an outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties (such as technical deficiencies or lack of know-how) encountered in compiling the required information;
- (i) a description of the measures envisaged concerning monitoring of the significant environmental effects of implementation of the plan;
- (j) a non-technical summary of the information provided under the above headings.”



GIVEN under the Official Seal of the Minister for the Environment, Heritage and Local Government this 14th day of July 2004.

MARTIN CULLEN, T.D.,

Minister for the Environment, Heritage 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 into Irish law Directive 2001/42/EC of 27 June 2001 (O.J. No. L197, 21 July 2001) on the assessment of the effects of certain plans and programmes on the environment — commonly known as the Strategic Environmental Assessment (SEA) Directive — insofar as the Directive relates to land-use planning.

The Regulations relate to consideration of the likely significant effects on the environment of a development plan, a variation of a development plan, a local area plan (or an amendment thereto), regional planning guidelines or a planning scheme in respect of a strategic development zone.

The Regulations shall come into operation on 21 July 2004.

¹ These effects should include secondary, cumulative, synergistic, short, medium and long-term, permanent and temporary, positive and negative effects.

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