

# S.I. No. 659/2006 — European Communities (Environmental Impact Assessment) (Amendment) Regulations 2006

S.I. No. 659 of 2006

## EUROPEAN COMMUNITIES (ENVIRONMENTAL IMPACT ASSESSMENT) (AMENDMENT) REGULATIONS 2006

The Minister for the Environment, Heritage 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 certain provisions of Directive 2003/35/EC of the European Parliament and the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC (No. 2003/35/EC, O.J. No. L156/17 - L156/24, 25 June 2003), hereby makes the following Regulations:

### PART I

#### PRELIMINARY AND GENERAL

|               |    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---------------|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Citation.     | 1. | These Regulations may be cited as the European Communities (Environmental Impact Assessment) (Amendment) Regulations 2006.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Commencement. | 2. | <div><div>(1)</div><div>Where a valid application for consent for development to which these Regulations refer is received by the planning authority before the date of coming into operation of these Regulations, the provisions of the appropriate enactment, shall continue to apply to said application (including any appeal that relates to that application) as if that enactment had not been amended.</div></div> <div><div>(2)</div><div>Subject to sub-article (1) where these Regulations provide for the amendment of an enactment, such amendment shall have effect on and from the coming into operation of these Regulations.</div></div> <div><div>(3)</div><div>In this article, “application for consent for development” means -<div><div>(a)</div><div>an application for planning permission under the Act, or</div></div><div><div>(b)</div><div>an application for approval for a development to be carried out by or on behalf of a local authority or State authority to An Bord Pleanála under the Act.</div></div></div></div> |

Interpretation.                    3.                    In these Regulations “the Act” means the Planning and Development Act 2000 (No. 30 of 2000) as amended.

PART II

AMENDMENT OF THE PLANNING AND DEVELOPMENT ACT 2000

Amendment of                    4.                    The following paragraph is substituted for Section 172(3)(b) of the Act:  
Section 172 of  
the Act.

“(b) The Board shall, in granting an exemption under paragraph (a), -

- (i)    consider whether the effects, if any, of the proposed development on the environment should be assessed in some other form, and
- (ii)   make available to members of the public the information relating to the exemption decision referred to under paragraph (a), the reasons for granting such exemption and the information obtained under any other form of assessment referred to in subparagraph (i),

and the Board may apply such requirements regarding these matters in relation to the application for permission as it considers necessary or appropriate.”.

Amendment of                    5.                    The following subsection is substituted for Section 174 (4) of the Act:  
Section 174 of  
the Act.

“(4) In any case where -

- (a)    notification has been received from another Member State of the European Communities or other party to the Transboundary Convention, in respect of any development, or
- (b)    a planning authority or a State authority requests, or in any other case where the Minister otherwise decides,

the Minister may request another Member State of the European Communities or other party to the Transboundary Convention to forward information in respect of any development which is subject to the Council Directive or Transboundary Convention and which is likely to have significant environmental effects in Ireland.”.

Amendment of                    6.(1)                The following clauses are inserted after clause (II) of Section 175(4)(a)  
Section 175 of                    (i):

the Act.

- “(III) it is notifying a Member State of the European Communities or any other party to the Transboundary Convention of its opinion that the proposed development to which the application for approval to An Bord Pleanála relates would be likely to have significant effects on the environment in that State,
- (IV) the Board may give approval to the application for development with or without conditions or may refuse the application for development.”.

6.(2) Section 175(8)(b) of the Act is substituted by the following paragraph:

“(b) The Board shall, in granting an exemption under paragraph (a), -

- (i) consider whether the effects, if any, of the proposed development on the environment should be assessed in some other form, and
- (ii) make available to members of the public the information relating to the exemption decision referred to under paragraph (a), the reasons for granting such exemption and the information obtained under any other form of assessment referred to in subparagraph (i),

and the Board may apply such requirements regarding these matters in relation to the application for approval as it considers necessary or appropriate.”.

GIVEN under the Official Seal of the Minister for the Environment, Heritage and Local Government this 19th day of December, 2006.

Dick Roche 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)*

These Regulations provide for the transposition into Irish planning law of provisions in EU Directive 2003/35/EC amending the Environmental Impact Assessment (EIA)

Directive (85/337/EEC) regarding public participation in the assessment of the effects of certain public and private projects on the environment.

These Regulations amend the provisions of the Planning and Development Act 2000 and the Planning and Development Regulations 2001 by providing for revised procedures to enhance public participation in the environmental impact assessment of projects having transboundary environmental impacts.

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