

S.I. No. 352/2010 — European Communities (Public Participation) Regulations 2010.

S.I. No. 352/2010 — European Communities (Public Participation) Regulations 2010. 2010 352

Notice of the making of this Statutory Instrument was published in

“Iris Oifigiúil” of 16th July, 2010.

I, JOHN GORMLEY T.D., Minister for the Environment, Heritage and Local Government, in exercise of the powers conferred on me 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 ¹ hereby make the following Regulations:

PART I

PRELIMINARY AND GENERAL

Citation

1. These Regulations may be cited as the European Communities (Public Participation) Regulations 2010.

2. Where these Regulations provide for the amendment of an enactment, the enactment shall, notwithstanding any provisions of the enactment as to commencement, have effect on and from the coming into operation of these Regulations.

PART II

AMENDMENT OF MISCELLANEOUS ENACTMENTS

Amendment of the Arterial Drainage Act 1945

3. The Arterial Drainage Act 1945 (No. 3 of 1945) is amended by:—

The insertion after section 7(3)(a)(ii) (inserted by article 16 of the European Communities (Environmental Impact Assessment) Regulations 1989 (S.I. No. 349 of 1989) and amended by article 10 of the European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999 (S.I. No. 93 of 1999) and article 6 of the European Communities (Arterial Drainage) Regulations 2009 (S.I. No. 388 of 2009)) of—

“(iii) The said notice shall inform the public that a person may question the validity of any such decision by the Minister by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986).

(iv) The notice shall identify where practical information on the review mechanism can be found.”

Amendment of Dublin Docklands Development Authority Act 1997

4. The Dublin Docklands Development Authority Act 1997 (No. 7 of 1997) is amended by:—

The insertion after section 25(6) (amended by article 3(2) of the European Communities (Dublin Docklands Development Authority Act 1997) (Amendment) Regulations 2007 (S.I. No. 865 of 2007)), of—

“25. (6) (a) The said notice shall inform the public that a person may question the validity of a notice of approval by the Minister by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with section 26A.

(b) The notice shall identify where practical information on the review mechanism can be found.”

Amendment of Dumping at Sea Act 1996

5. The Dumping at Sea Act 1996 (No. 14 of 1996) is amended by:—

The insertion after section 5A(7)(c) (inserted by section 5 of the Dumping at Sea (Amendment) Act 2004 (S.I. No. 35 of 2004) and substituted by Item 18 of Schedule 2 to the Foreshore and Dumping at Sea (Amendment) Act 2009) (S.I. No. 39 of 2009)), of—

“(8) Decisions published in accordance with subsection 7(c) shall include—

(a) a statement that a person may question the validity of any decision by the Agency by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), and

(b) a statement describing where practical information on the review mechanism can be found.”

Amendment of European Communities (Environmental Impact Assessment) (Amendment) Regulations 2001

6. The European Communities (Environmental Impact Assessment) (Amendment) Regulations 2001 (S.I. No. 538 of 2001) are amended by:—

The substitution for article 14 of the following:—

“14. (a) The Minister shall cause to be published, in one or more newspapers circulated in the area and/or by electronic means, a notice informing the public of a decision in respect of the application.

(b) The notice shall state that a person may question the validity of any such decision by the Minister by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986).

(c) The notice shall identify where practical information on the review mechanism can be

found.”

Amendment of Foreshore Act 1933

7. The Foreshore Act 1933 (No. 12 of 1933) is amended by:—

The insertion after section 21A (inserted by article 6 of the European Communities (Foreshore) Regulations 2009 (S.I. No. 404 of 2009)) of—

“21B. (a) A notice published under section 21A shall state that a person may question the validity of any such determination by the Minister by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986).

(b) The notice shall identify where practical information on the review mechanism can be found.”

Amendment of Gas Act 1976

8. The Gas Act 1976 (No. 30 of 1976) is amended by:—

The insertion after section 40A(8)(a) (inserted by article 20 of the European Communities (Environmental Impact Assessment) Regulations 1989 (S.I. No. 349 of 1989) and amended by article 13 of the European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999 (S.I. No. 93 of 1999)) of—

“(aa) The said notice shall inform the public that a person may question the validity of such a decision of the Minister by way of an application for judicial review under, Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986).

(ab) The notice shall identify where practical information on the review mechanism can be found.”

Amendment of Petroleum and Other Minerals Development Act 1960

9. The Petroleum and Other Minerals Development Act 1960 (No. 7 of 1960) is amended by:—

The insertion after section 13A(8)(1)(a) (inserted by article 19 of the European Communities (Environmental Impact Assessment) Regulations 1989 (S.I. No. 349 of 1989) and amended by article 12 of the European Communities (Environmental Impact Assessment) (Amendment) Regulations 1999 (S.I. No. 93 of 1999)) of—

“(aa) The said notice shall inform the public that a person may question the validity of any such decision by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986).

(ab) The said notice shall identify where practical information on the review mechanism can be found.”

Amendment of the Planning and Development Act 2000

10. The Planning and Development Act 2000 (No. 30 of 2000) is amended by:—

(a) the insertion after section 34(1) of—

“(1A) Where an application to a planning authority is required to have been accompanied by an Environmental Impact Statement:

(a) The planning authority shall cause to be published in one or more newspapers circulated in the area and/or by electronic means, a notice informing the public of such a decision of the planning authority.

(b) The notice shall state that the applicant and any person who made submissions or observations in writing to the planning authority in relation to the planning application in accordance with section 37(1) may appeal such a decision to the Board.

(c) The notice shall further state that a person may question the validity of any decision of the planning authority by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with section 50.

(d) The notice shall further state that a person may question the validity of any decision on an appeal by the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with section 50.

(e) The notice shall identify where practical information on the appeal and review mechanisms can be found.”

(b) the insertion after section 3 7H(1) (inserted by section 3 of the Planning and Development (Strategic Infrastructure) Act 2006) of—

“(1A) (a) The Board shall cause to be published in one or more newspapers circulated in the area a notice informing the public of a decision under section 37G.

(b) The notice shall state that a person may question the validity of any such decision by the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with section 50.

(c) The notice shall identify where practical information on the review mechanism can be found.”

(c) the insertion after section 175(4)(a), after the phrase ‘if carried out’, in subsection (iii) of—

“(iv) stating that a person may question the validity of a decision of the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986)

(v) stating where practical information on the review mechanism can be found.”

(d) the insertion after section 181A (3)(a)(iv) (inserted by section 3 of the Planning and Development (Strategic Infrastructure) Act 2006) of—

“(v) stating that a person may question the validity of a decision of the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) and

(vi) stating where practical information on the review mechanism can be found.”

(e) the insertion after section 182A (4)(a)(iv) (inserted by the Planning and Development (Strategic Infrastructure) Act 2006) of—

“(v) stating that a person may question the validity of a decision of the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) and

(vi) stating where practical information on the review mechanism can be found.”

(f) the insertion after section 182C (4)(a)(iv) (inserted by the Planning and Development (Strategic Infrastructure) Act 2006) of—

“(v) stating that a person may question the validity of a decision of the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) and

(vi) stating where practical information on the review mechanism can be found.”

Amendment of the Planning and Development Regulations 2001

11. The Planning and Development Regulations 2001 (S.I. No. 600 of 2001) are amended by:—

The insertion after article 220(2)(f) (inserted by the Planning and Development Regulations 2006 (S.I. No. 685 of 2006)) of—

“(g) a statement that a person may question the validity of any such decision by the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with section 50 and

(h) a statement describing where practical information on the review mechanism can be found.”

Amendment of the Roads Act 1993

12. The Roads Act 1993 (No. 14 of 1993) is amended by:—

(1) The insertion after section 48(a)(iii) of—

“(iv) stating that a person may question the validity of a decision of An Bord Pleanála by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) and

(v) identifying where practical information on the review mechanism can be found.”

(2) The insertion after section 51(6)(a) (amended by section 215 of the Planning and

Development Act 2000) of—

“(aa) The said notice shall inform the public that a person may question the validity of any determination by An Bord Pleanála on a proposed road development by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986).

(ab) The notice shall identify where practical information on the review mechanism can be found.”

Amendment of the Transport (Railway Infrastructure) Act 2001

13. The Transport (Railway Infrastructure) Act 2001 (No. 55 of 2001) is amended by:—

(1) The insertion after section 40(1)(b)(v) of—

“(vi) stating that a person may question the validity of a decision of the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) and

(v) identifying where practical information on the review mechanism can be found.”

(2) The insertion after section 43(3)(b) (amended by section 49 of the Planning and Development (Strategic Infrastructure) Act 2006) of—

“(c) A notice referred to in paragraph (a) shall further state—

(i) that a person may question the validity of the Board’s decision or any act done or order made by the Board by way of an application for judicial review, under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with section 47,

(ii) where practical information on the review mechanism can be found.”



GIVEN under my Official Seal,

13 July 2010.

JOHN GORMLEY,

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 are for the purpose of giving effect to Directive 2003/35/EC of the European Parliament and of 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.

1 O.J. No. L156/17 — L156/24, 25 June 2003

© Government of Ireland. Oireachtas Copyright Material is reproduced with the permission of
the House of the Oireachtas