

**L.N. 223 of 2014**

**EUROPEAN UNION ACT  
(CAP. 460)**

**Environment and Development Planning Act  
(Amendment) Order, 2014**

IN EXERCISE of the powers conferred by article 4 of the European Union Act, the Prime Minister has, for the purposes specified in sub-article (2) of the said article, made the following Order:-

**1.** (1) The title of this Order is the Environment and Development Planning Act (Amendment) Order, 2014 and this Order shall be read and construed as one with the Environment and Development Planning Act, hereinafter referred to as "the principal Act".

Citation and purpose.

Cap. 504.

(2) The purpose of this Order is the transposition and implementation of certain provisions of 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.

**2.** Article 41 of the principal Act shall be amended as follows:

Amends article 41 of the principal Act.

(a) sub-article (3) thereof shall be substituted by the following:

"(3) The Tribunal may, at the request of the appellant made concurrently with the application for the appeal, suspend through a partial decision, in whole or in part, the execution of any development or the operation of any installation, pending a decision being delivered by the said Tribunal, under those terms, conditions and other measures as it may deem fit:

Provided that the application, with the exception of applications relating to developments or installations which relate to environmental impact assessment and, or integrated pollution prevention and control ('IPPC') matters, is not for a development which, in the opinion of

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the Minister is of strategic significance or of national interest, related to any obligation ensuing from a European Union act, affects national security or affects interests of other governments."; and

(b) immediately after sub-article (14) thereof, there shall be added the following new sub-articles:

"(15) Appeal proceedings before the Tribunal pursuant to sub-article (1) shall be conducted in a timely manner, without undue delay, and shall not be prohibitively expensive.

Cap. 12.

(16) Appeal proceedings before the Court of Appeal pursuant to sub-article (6) shall be concluded in a timely manner and shall not be prohibitively expensive. Legal and judicial costs and fees in the said proceedings shall be taxed in accordance with paragraph (7) of item 3 of Tariff A and with paragraph (b) of item 15 Tariff E in Schedule A to the Code of Organization and Civil Procedure."

Addition of new article 41A to the principal Act.

3. Immediately after article 41 of the principal Act there shall be added the following new article:

"Access to review procedure.

41A. (1) Members of the public concerned having sufficient interest shall have access to a review procedure before the Tribunal to challenge the substantive or procedural legality of any decision, act or omission relating to a development or an installation which is subject to an environmental impact assessment ('EIA') or an integrated pollution prevention and control ('IPPC') permit.

(2) Such an appeal may be lodged before the Tribunal within thirty days from the date of notification of the final decision by the Authority:

Provided that such an appeal may relate to or include an objection to any act or omission committed at any time during the process of the EIA or IPPC leading to the decision in question.

Cap. 492. (3) For the purposes of sub-article (1), the interest of any non-governmental organisation promoting environmental protection and which is registered under the Voluntary Organisations Act shall be deemed sufficient.

(4) The provisions of article 41 shall, *mutatis mutandis*, apply to review procedures pursuant to this article."

4. Immediately after sub-article (4) of article 75 of the principal Act, there shall be added the following new sub-articles: Amends article 75 of the principal Act.

Cap. 492. "(5) A decision by the Cabinet of Ministers, pursuant to this article, which relates to a development or an installation which is subject to an environmental impact assessment and, or an IPPC permit, may, upon an application by the appellant or by an interested party, which may include a non-governmental organization having as one of its purposes the promotion of environmental protection and is registered under the Voluntary Organisations Act, be subject to appeal on matters of substantive and procedural legality to the Court of Appeal in its superior jurisdiction. An appeal in terms of this sub-article shall be made by an application to be filed within ten days from the date of communication of the decision of the Cabinet of Ministers to the parties. The appeal proceedings shall be concluded by the Court of Appeal within four months from the filing of the appeal and shall not be prohibitively expensive. Legal and judicial costs and fees in the said proceedings shall be taxed in accordance with paragraph (7) of item 3 of Tariff A and with paragraph (b) of item 15 Tariff E in Schedule A to the Code of Organization and Civil Procedure.

Cap. 12.

(6) The execution of any development or the operation of any installation which is subject to an environmental impact assessment and, or an IPPC permit, and which is pending a decision by the Cabinet of Ministers in terms of this article shall be suspended until the decision of the Cabinet is taken.

Cap. 492.

(7) Where a decision of the Cabinet of Ministers is subject to an appeal in accordance with sub-article (5), the Court of Appeal may, upon a request of the appellant or of an interested party, which may include a non-governmental organization having as one of its purposes the promotion of environmental protection and which is registered under the Voluntary Organisations Act, order that the execution of the development or the operation of the installation be suspended whilst proceedings before the said Court are pending."

Amends the  
Second  
Schedule to the  
principal Act.

5. Immediately after paragraph 15 of the Second Schedule to the principal Act, there shall be added the following new paragraph:

"16. The Authority shall ensure that detailed information is made available to the public concerning access provided for under this Act to appeal procedures before the Tribunal and before the Court of Appeal, including information on the rights of any person to institute appeal proceedings, and shall give information on legal time limits and on mandatory fees payable in respect of such proceedings, including through publication on the electronic website of the Authority."

