



STATUTORY INSTRUMENTS.

**S.I. No. 403 of 2013**



EUROPEAN UNION (ENVIRONMENTAL IMPACT ASSESSMENT AND  
HABITATS) (SECTION 181 OF THE PLANNING AND DEVELOPMENT  
ACT 2000) REGULATIONS 2013

## EUROPEAN UNION (ENVIRONMENTAL IMPACT ASSESSMENT AND HABITATS) (SECTION 181 OF THE PLANNING AND DEVELOPMENT ACT 2000) REGULATIONS 2013

I, PHIL HOGAN, Minister for the Environment, Community 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 further effect to Directive 2011/92/EU<sup>1</sup> of the European Parliament and of the Council of 13 December 2011 and Council Directive 92/43/EEC<sup>2</sup> of 21 May 1992, hereby make the following Regulations:

*Citation.*

1. These Regulations may be cited as the European Union (Environmental Impact Assessment and Habitats) (Section 181 of the Planning and Development Act 2000) Regulations 2013.

*Amendment of Section 181 of the Act.*

2. Section 181 of the Planning and Development Act 2000 is amended by the insertion of the following after subsection (2):

“(3) (a) In this subsection—

‘foreshore’ has the meaning assigned to it by section 224;

‘Minister concerned’ means—

- (i) the Minister of the Government who proposes to carry out development to which this subsection applies, or have it carried out on his or her behalf, or
- (ii) the Minister for Public Expenditure and Reform where the Commissioners propose to carry out development to which this subsection applies, or have it carried out on their behalf.

(b) This subsection applies to development (other than development prescribed for the time being under subsection (1) or in respect of which an order under subsection (2) is in force), including development on the foreshore, proposed to be carried out by or on behalf of a Minister concerned where that Minister is satisfied—

<sup>1</sup>OJ L26, 28.1.2012, p.1

<sup>2</sup>OJ L 206, 22.7.1992, p.7

*Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 25th October, 2013.*

- (i) that the carrying out of the proposed development is urgent in order to preserve, protect or improve the quality of the environment or protect human health, and
  - (ii) having had regard to Part X and Part XAB, that an environmental impact assessment or an appropriate assessment, or, as necessary, both such assessments, of the proposed development is required.
- (c) A Minister concerned, in relation to proposed development to which this subsection applies, may apply to the Board for approval.
- (d) Where a Minister concerned applies to the Board for approval under this subsection—
- (i) section 175 shall apply where the application for approval relates to proposed development where an environmental impact assessment is required, as it applies to such an application by a local authority, subject to the modifications that section 175 shall be read as if—
    - (I) the following were substituted for subsection (1):
 

“(1) Where development to which section 181(3) applies, belonging to a class of development identified for the purposes of section 176, is proposed to be carried out (in this section referred to as “proposed development”) by the Minister concerned within the meaning of section 181(3) (in this section referred to as the “Minister concerned”), that Minister concerned shall prepare, or cause to be prepared, an environmental impact statement in respect thereof.”,
    - (II) in the section, other than as modified under clause (I), ‘Minister concerned’ were substituted for ‘local authority’,
    - (III) in subsections (4)(b) and (5)(d)(ii), ‘prescribed authorities’ and ‘prescribed authority’ includes the local authority within whose functional area the proposed development is to be carried out, and
    - (IV) any other necessary modifications have been made,
  - (ii) section 177AE shall apply where the application for approval relates to proposed development where an appropriate assessment is required, as it applies to such an application by a local authority, subject to the modifications that section 177AE shall be read as if—

(I) the following were substituted for subsection (1):

“(1) Where an appropriate assessment is required in respect of development to which section 181(3) applies, on land or on the foreshore (in this section referred to as “proposed development”), the Minister concerned within the meaning of section 181(3) (in this section referred to as the “Minister concerned”) shall prepare, or cause to be prepared, a Natura impact statement in respect thereof.”,

(II) in the section, other than as modified under clause (I), ‘Minister concerned’ were substituted for ‘local authority’,

(III) in subsections (4)(b) and (5)(d)(ii), ‘prescribed authorities’ and ‘prescribed authority’ includes the local authority within whose functional area the proposed development is to be carried out, and

(IV) any other necessary modifications have been made,

(iii) section 226 shall apply to the application for approval where the proposed development is wholly or partly on the foreshore and an environmental impact assessment is required, as it applies to such an application by a local authority, subject to the modifications that the section shall be read as if—

(I) the following were substituted for subsection (1):

“(1) Where an environmental impact assessment is required in respect of developments to which section 181(3) applies, on the foreshore (in this section referred to as “proposed development”), the Minister concerned within the meaning of section 181(3) (in this section referred to as the “Minister concerned”) shall apply to the Board for approval of the proposed development.”,

(II) in the section, other than as modified under clause (I), ‘Minister concerned’ were substituted for ‘local authority concerned’,

(III) subsection 4 and paragraph (c) of subsection (9) were deleted, and

(IV) any other necessary modifications have been made.

(e) Where an application is made to the Board under this subsection, or where further information is required by and furnished to the Board in relation to an application made under this subsection,

the Minister concerned shall at the same time forward a copy of the application and the environmental impact statement or Natura impact statement, or both of them as the case may be, or the further information, to the planning authority in whose functional area it is proposed to carry out the development and the Board and the planning authority shall as soon as possible make the application, and the environmental impact statement or Natura impact statement, or both of them as the case may be, or the further information, available for inspection at their offices during office hours.

- (f) Any matter or thing prescribed—
- (i) under section 175 or 176 shall apply as required to an application for approval for proposed development referred to at subparagraph (i) of paragraph (d),
  - (ii) under section 177AD or 177AE shall apply as required to an application for approval for proposed development referred to at subparagraph (ii) of paragraph (d), or
  - (iii) under section 175, 176 or 226 shall apply as required to an application for approval for proposed development referred to at subparagraph (iii) of paragraph (d).
- (g) The Board shall consider an application made in compliance with this subsection and shall make its decision as expeditiously as possible.
- (h) Section 32 or 225, as appropriate, shall not apply to a development in relation to which, under this subsection, the Board approves an application with or without modification.”.



GIVEN under my Official Seal,  
21 October 2013.

PHIL HOGAN TD,  
Minister for the Environment, Community 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 provide for the direct application by state authorities to An Bord Pleanála for approval for works or development where the works or development are urgently required in order to preserve, protect or improve the quality of the environment or protect human health, in compliance with EU Directives.

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