



STATUTORY INSTRUMENTS.

**S.I. No. 404 of 2018**

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EUROPEAN UNION (PLANNING AND DEVELOPMENT)  
(ENVIRONMENTAL IMPACT ASSESSMENT) (NO. 2) REGULATIONS  
2018

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I, EOGHAN MURPHY, Minister for Housing, Planning 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 of the European Parliament and of the Council of 13 December 2011<sup>1</sup> on the assessment of the effects of certain public and private projects on the environment, hereby make the following regulations:

1. These Regulations may be cited as the European Union (Planning and Development) (Environmental Impact Assessment) (No. 2) Regulations 2018.

2. Section 172 of the Planning and Development Act 2000 (No. 30 of 2000) is amended by the substitution of the following subparagraph for subparagraph (ii) of paragraph (b) of subsection (1):

“(ii) it is concluded, determined or decided, as the case may be,—

- (I) by a planning authority, in exercise of the powers conferred on it by this Act or the Planning and Development Regulations 2001 (S.I. No. 600 of 2001),
- (II) by the Board, in exercise of the powers conferred on it by this Act or those regulations,
- (III) by a local authority in exercise of the powers conferred on it by regulation 120 of those regulations,
- (IV) by a State authority, in exercise of the powers conferred on it by regulation 123A of those regulations,
- (V) in accordance with section 13A of the Foreshore Act, by the appropriate Minister (within the meaning of that Act), or
- (VI) by the Minister for Communications, Climate Action and Environment, in exercise of the powers conferred on him or her by section 8A of the Minerals Development Act 1940,

that the proposed development is likely to have a significant effect on the environment.”

<sup>1</sup>OJ No. L26 of 28.1.2012, p.1

3. Part 2 of Schedule 5 of the Regulations of 2001 (S.I. No. 600 of 2001) is amended by the substitution of the following clause for clause (iv) of subparagraph (e) of paragraph 2:

“(iv) any other deep drilling, except where, in considering whether or not an environmental impact assessment should be carried out—

(I) a planning authority or the Board—

(A) concludes, or

(B) having regard to the criteria set out in Schedule 7, determines,

for the purposes of Part X of the Act, that the proposed drilling concerned would not have a significant effect on the environment,

(II) a local authority, in exercise of the powers conferred on it by regulation 120, concludes or determines that there is no real likelihood of significant effects on the environment arising from the proposed drilling concerned,

(III) a State authority, in exercise of the powers conferred on it by regulation 123A, concludes or determines that there is no real likelihood of significant effects on the environment arising from the proposed drilling concerned,

(IV) it is decided, in accordance with section 13A of the Foreshore Act 1933 (No. 12 of 1933) (in this subparagraph referred to as the “Act of 1933”), by the appropriate Minister (within the meaning of the Act of 1933) that the drilling concerned would not have a significant effect on the environment,

(V) the appropriate Minister (within the meaning of the Act of 1933) confirms—

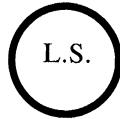
(A) in accordance with paragraph (a) of subsection (2) of section 13B of the Act of 1933, that the authorisation of the Minister for Communications, Climate Action and Environment records that a screening or assessment referred to in that paragraph has been carried out by the Minister for Communications, Climate Action and Environment in respect of the underlying project to which the petroleum activity relates, or

(B) in accordance with paragraph (b) of the said subsection (2), that the Minister for Communications, Climate Action and Environment will carry out such a screening or assessment in respect of that project, or

(VI) the Minister for Communications, Climate Action and Environment—

(A) in accordance with section 8A of the Minerals Development Act 1940 (No. 31 of 1940), determines that a screening determination for environmental impact assessment is not required,

(B) when making a screening determination for environmental impact assessment in accordance with subsection (8) of the said section 8A of the Minerals Development Act 1940 (No. 31 of 1940), determines that the drilling concerned would not be likely to have significant effects on the environment.”



GIVEN under my Official Seal,  
8 October 2018.

EOGHAN MURPHY,  
Minister for Housing, Planning 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 European Union Regulations is to give further effect in Irish law to Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 2014/52/EU.

The Regulations amend section 172(1)(b)(ii) of the Planning and Development Act 2000, which specifies the bodies or persons empowered to make a determination as to whether a proposed development is likely to have a significant effect on the environment has effect for the purposes of the planning code. Environmental impact assessment (EIA) must be carried out in respect of a proposed development where it is determined that the development is likely to have a significant effect on the environment.

The Regulations also amend paragraph 2(e)(iv) of Part 2 of Schedule 5 to the Planning and Development Regulations 2001, which sets out particular circumstances in which environmental impact assessment is not required in respect of deep drilling carried out as part of specified classes of development.

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