



STATUTORY INSTRUMENTS.

S.I. No. 384 of 2018

EUROPEAN UNION (ENVIRONMENTAL IMPACT ASSESSMENT)
(MINERALS DEVELOPMENT ACT 1940) (AMENDMENT)
REGULATIONS 2018

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I, DENIS NAUGHTEN, Minister for Communications, Climate Action and Environment, 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 2011¹ on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014² amending Directive 2011/92/EU 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 (Environmental Impact Assessment)(Minerals Development Act 1940)(Amendment) Regulations 2018.

2. The Minerals Development Act 1940 is amended by the insertion of the following section after section 8:

“Environmental Impact Assessment

8A. (1) In this section—

‘Act of 2000’ means the Planning and Development Act 2000 (No.30 of 2000);

‘Environmental Impact Assessment Directive’ means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011¹ on the assessment of the effects of certain public and private projects on the environment as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014² amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment;

‘environmental impact assessment’ has the meaning assigned to it by section 171A of the Act of 2000;

‘European site’ has the meaning assigned to it by section 177R of the Act of 2000;

‘proposed activity’ has the meaning assigned to it by subsection (3);

¹OJ L 26, 28.1.2012, p.1

²OJ L124.25.4.2014,p.1

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 2nd October, 2018.*

‘Regulations of 2001’ means the Planning and Development Regulations 2001 (S.I. No. 600 of 2001);

‘screening determination for environmental impact assessment’ means a determination made as part of a screening for environmental impact assessment;

‘screening for environmental impact assessment’ means a determination—

- (a) as to whether a proposed activity would be likely to have significant effects on the environment, and
- (b) if the activity would be likely to have such effects, that an environmental impact assessment is required.

(2) Subject to this section, a word or expression that is used in this section and that is also used in the Environmental Impact Assessment Directive has, unless the context otherwise requires, the same meaning in this section as it has in that Directive.

(3) A holder of a prospecting licence under section 8 who, in compliance with that licence, applies to the Minister for consent to undertake an activity of a class specified in clause (iv) of subparagraph (e) of paragraph (2) of Part 2 of Schedule 5 to the Regulations of 2001 (“proposed activity”) shall, subject to subsection (4), also apply to the Minister for a screening determination for environmental impact assessment.

(4) Where the person referred to in subsection (3) is of the view that each of the following criteria applies to the proposed activity, that person may apply to the Minister for a determination that a screening determination for environmental impact assessment is not required:

- (a) the site where the proposed activity will take place is less than 1 hectare;
- (b) the site where the proposed activity will take place is more than 100 metres from—
 - (i) land to which a notice under section 16 of the Wildlife (Amendment) Act 2000 of an intention of the Minister for Culture, Heritage and the Gaeltacht to make an order designating land as a natural heritage area under section 18 of that Act applies, or
 - (ii) land designated a natural heritage area under section 18 of the Wildlife (Amendment) Act 2000;
- (c) the site where the proposed activity will take place is not within a European site;

- (d) no equipment capable of waste spillage or process run-off shall be operated for the purpose of the proposed activity within 10 metres of a watercourse which is a river or lake entered on those parts of the register of protected areas established by the Environmental Protection Agency under Regulation 8 of the European Communities (Water Policy) Regulations 2003 (S.I. No. 722 of 2003) called respectively “WFD Riverwater Bodies that are protected for drinking water” and “WFD Lakewater Bodies that are protected for drinking water”;
 - (e) the site where the proposed activity will take place is more than 100 metres from water abstraction carried on for the purpose of human consumption on a non — commercial basis;
 - (f) the site where the proposed activity will take place is more than 300 metres from water abstraction carried on for the purpose of supply of water to the public;
 - (g) the equipment proposed to be operated for the purpose of the proposed activity has been tested and a report of the results of the test shows that noise caused by that equipment shall not, at the nearest noise sensitive receptor, exceed noise limits set out in guidelines issued by the Environmental Protection Agency for the time being called NG4;
 - (h) the site where the proposed activity will take place is not situated in any national park owned by and managed on behalf of the State.
- (5) (a) An application for a determination under subsection (4) shall contain—
- (i) the name and address of the applicant,
 - (ii) a location map for the proposed activity,
 - (iii) a description of the nature and extent of the proposed activity and its characteristics;
 - (iv) information to satisfy the Minister that each of the criteria referred to in subsection (4) applies to the proposed activity.
- (b) The Minister shall within 6 weeks consider the application under subsection (4) and shall notify the applicant referred to in subsection (3) of his or her determination whether the applicant is required to apply for a screening determination for environmental impact assessment.
- (c) The Minister shall give reasons for his or her determination under paragraph (b).

(d) The Minister shall publish his or her determination under paragraph (b) in such form or manner as he or she considers appropriate including publication on the website of the Department of Communications, Climate Action and Environment, together with information on the procedure for seeking to have the decision judicially reviewed and notification that the costs of any such judicial review are governed by Part 2 of the Environment (Miscellaneous Provisions) Act 2011 (No. 20 of 2011).

(6) An application for a screening determination for environmental impact assessment shall contain—

- (a) the name and address of the applicant,
- (b) a location map for the proposed activity,
- (c) a description of the nature and extent of the proposed activity, its characteristics, its likely significant effects on the environment (including the information specified in Schedule 7A to the Regulations of 2001) including, where relevant, information on how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account, and
- (d) any other information as may be requested by the Minister.

(7) An application for a screening determination for environmental impact assessment may also contain a description of any features of the proposed activity or measures envisaged to avoid or prevent significant adverse effects on the environment.

(8) The Minister shall make a screening determination for environmental impact assessment in respect of the proposed activity on the basis of the information provided by the applicant under subsections (6) and, as the case may be, (7) taking into account the relevant selection criteria specified in Schedule 7 to the Regulations of 2001 and, where relevant, the results of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation (other than the EIA Directive).

(9) A screening determination for environmental impact assessment shall—

- (a) where the Minister determines that the proposed activity would be likely to have significant effects on the environment, specify with reference to the relevant criteria listed in Schedule 7 to the Regulations of 2001 the main reasons for that determination, and

(b) where the Minister determines that the proposed activity would not be likely to have significant effects on the environment, specify with reference to the relevant criteria listed in Schedule 7 to the Regulations of 2001, the main reasons for that determination, and

(i) any features of the activity to avoid or prevent significant adverse effects on the environment, or

(ii) measures proposed by the applicant or another person, as the case may be, to avoid or prevent what would otherwise be significant adverse effects on the environment, which the Minister has relied upon in making the decision.

(10) (a) Subject to paragraph (b), the Minister shall make his or her screening determination for environmental impact assessment as soon as possible and within 90 days from the date on which the applicant has submitted to the Minister all the information referred to in subsection (6) or, as the case may be, (7).

(b) The Minister may, in exceptional cases, including where the nature, complexity, location or size of the proposed activity justifies it, extend the 90 day period referred to in paragraph (a) in order to make his or her determination and in such cases he or she shall inform the applicant in writing of the reasons justifying the extension and of the date when his or her determination is expected.

(11) Where the Minister makes a determination that the applicant is not required to submit an environmental impact assessment report, the applicant shall comply with any specified measures relied upon by the Minister in accordance with subsection (9)(b)(ii) to determine that no environmental impact assessment report is required.

(12) The Minister shall publish his or her screening determination for environmental impact assessment (including the matters referred to in subsection (9)), in such form or manner as he or she considers appropriate including publication on the website of the Department of Communications, Climate Action and Environment, together with information on the procedure for seeking to have the decision judicially reviewed and notification that the costs of any such judicial review are governed by Part 2 of the Environment (Miscellaneous Provisions) Act 2011.”.



GIVEN under my Official Seal,
28 September 2018.

DENIS NAUGHTEN,
Minister for Communications, Climate Action and
Environment.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations give further effect to Directive 2011/92/EU as amended by Directive 2014/52/EU concerning the application of the screening provisions in respect of Environmental Impact Assessment in the context of applications for consent for deep drilling for mineral exploration purposes.

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