



STATUTORY INSTRUMENTS.

S.I. No. 469 of 2012



EUROPEAN UNION (ENVIRONMENTAL IMPACT ASSESSMENT)
(ARTERIAL DRAINAGE) REGULATIONS 2012

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I, BRENDAN HOWLIN, Minister for Public Expenditure and Reform, 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 Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011¹, hereby make the following regulations:

1. These Regulations may be cited as the European Union (Environmental Impact Assessment) (Arterial Drainage) Regulations 2012.

2. Section 4 of the Arterial Drainage Act 1945 (No. 3 of 1945) is amended by inserting after subsection (1) the following:

“(1A) (a) Notwithstanding anything in this Act, ‘environmental impact assessment’ means an assessment (including an examination, analysis and evaluation) carried out by the Minister in accordance with this Act that shall identify, describe and assess in an appropriate manner, in light of each individual case and in accordance with Articles 4 to 11 of the Directive, the direct and indirect effects of a proposed drainage scheme on the following:

(i) human beings, flora and fauna,

(ii) soil, water, air, climate and the landscape,

(iii) material assets and the cultural heritage, and

(iv) the interaction among the factors mentioned in subparagraphs (i), (ii) and (iii).

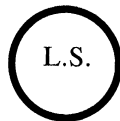
(b) Subject to this Act, a word or expression that is used in the Act and that is also used in the Directive has, unless the context otherwise requires, the same meaning in this Act as it has in that Directive.

(c) The Minister shall, as part of his consideration of a proposed drainage scheme, in accordance with paragraph (d), ensure that before confirmation is given, a proposed drainage scheme likely to have significant effects on the environment by virtue, inter alia of its nature, size or location is made subject to an environmental impact assessment.

¹OJ L26, 28.1.2012, p.1

- (d) An environmental impact assessment shall be carried out by the Minister in respect of an application for confirmation for development specified in paragraphs (a) and (b) of subsection (2A).
- (e) The Minister shall require the production by the Commissioners of any additional or supplemental information that he considers necessary to enable him to make an assessment as required under this subsection.
- (f) The Minister shall consider the environmental impact statement (and any other material including maps or plans) submitted as part of a proposed drainage scheme and determine whether that environmental impact statement adequately identifies, describes and assesses the direct and indirect effects of the proposed drainage scheme. If the environmental impact statement (or other material) is inadequate, the Minister shall serve a notice (in this subsection referred to as a 'request for further information') setting out the manner in which the documentation submitted is inadequate and require the Commissioners to submit further information to remedy these inadequacies.
- (g) In carrying out his environmental impact assessment, the Minister shall have regard to the following matters:
 - (i) the particulars submitted with the application for confirmation of a drainage scheme (including the environmental impact statement and any other material including maps and plans),
 - (ii) any additional material submitted in response to a request for further information (if any) pursuant to paragraphs (e) and (f),
 - (iii) any submissions or observations made in relation to the effects on the environment of the proposed drainage scheme (including those made by other consent authorities, prescribed bodies or members of the public) and
 - (iv) the views (if any) furnished by other Member States pursuant to section 7(4).
- (h) Where the Minister decides to confirm a proposed drainage scheme, then the Minister may attach such conditions to the confirmation as he considers necessary, to avoid, reduce and, if possible, offset the major adverse effects (if any) of the proposed drainage scheme.
 - (i) In carrying out his environmental impact assessment, the Minister shall have regard to, and may adopt, in whole or in part, any reports prepared by his officials or by consultants, experts or other advisors.

- (j) When a decision to confirm or refuse to confirm a proposed drainage scheme has been taken, the Minister shall inform the Commissioners and the public thereof and shall, in addition to the information to be made available pursuant to section 7(3)(b), make the following information available to the Commissioners and the public:
 - (i) the content of the confirmation and any conditions attached thereto,
 - (ii) the Minister's evaluation of the project's direct and indirect effects on the factors set out in subparagraphs (i) to (iii) of paragraph (a) and the interaction among those factors, and
 - (iii) the reports referred to in paragraph (i) and information for the public on the procedures available to review the substantive and procedural legality of the decision.
- (k) In this section "Directive" means 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."



GIVEN under my Official Seal,
25 October 2012.

BRENDAN HOWLIN,
Minister for Public Expenditure and Reform.

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