



STATUTORY INSTRUMENTS.

S.I. No. 190 of 2020

ENVIRONMENTAL PROTECTION AGENCY (INDUSTRIAL
EMISSIONS) (LICENSING) (AMENDMENT) REGULATIONS 2020

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I, RICHARD BRUTON, Minister for Communications, Climate Action and Environment, in exercise of the powers conferred on me by sections 6, 85(4), and 89 (inserted by section 15 of the Protection of the Environment Act 2003 (No. 27 of 2003)) of the Environmental Protection Agency Act 1992 (No. 7 of 1992) and the Climate Action and Environment (Transfer of Departmental Administration and Ministerial Functions) Order 2016 (S.I. No. 393 of 2016), 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 as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014², hereby make the following regulations:

1. These Regulations may be cited as the Environmental Protection Agency (Industrial Emissions) (Licensing) (Amendment) Regulations 2020.

2. In these Regulations -

“Act of 1992” means the Environmental Protection Agency Act 1992 (No. 7 of 1992);

“Principal Regulations” means the Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013 (S.I. 137 of 2013).

3. The Principal Regulations are amended –

(a) by the substitution of “environmental impact assessment report” for “environmental impact statement” in each place that it occurs, and

(b) by the substitution of “environmental impact assessment reports” for “environmental impact statements” in each place that it occurs.

4. Regulation 2 of the Principal Regulations is amended-

(a) by the insertion of the following definition after the definition of “application for permission”:

¹ OJ No. L 26, 28.1.2012, p. 1

² OJ No. L 124, 25.4.2014, p. 1

“EIA Directive” means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011³ as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014⁴;

and

- (b) by the deletion of the definition of “Planning and Development Regulations”.

5. Regulation 4 of the Principal Regulations is amended by the insertion of the following paragraph after paragraph (1):

“(2) Where an application is required to be accompanied by an environmental impact assessment report the Agency shall -

- (a) publish a copy of the notification provided in accordance with Regulation 5 on its website,
- (b) without prejudice to Regulation 18, make the information referred to in Regulation 5(d)(ii) available on its website, at the latest as soon as practicable after -
 - (i) sending a notification under Regulation 11(1), or,
 - (ii) in the case of additional or supplementary information requested under paragraph (e), or required under paragraph (f)(ii)(II), of section 83(2A) of the Act of 1992, receiving such information,
- (c) specify on its website, by reference to the date on which information is made available under paragraph (b), a period, which shall be not less than 30 days, within which submissions may be made to it in writing in relation to the likely effects on the environment of the proposed activity, and
- (d) publish a notification on its website, where it is the case, that it appears to the Agency that the activity the subject of the application would, or is likely to, have significant effects on the environment in another Member State of the European Union.”.

6. Regulation 5(d) of the Principal Regulations is amended -

- (a) in subparagraph (i), by the substitution of “such a report” for “such a statement”,
- (b) by the substitution of the following subparagraph for subparagraph (ii):

³ OJ No. L 26, 28.1.2012, p. 1

⁴ OJ No. L 124, 25.4.2014, p. 1

“(ii) state that -

- (I) the environmental impact assessment report submitted to the Agency in accordance with section 83(2A)(d) of the Act of 1992,
- (II) any information provided to the Agency under paragraph (e) or (f)(ii)(II) of section 83(2A) of the Act of 1992,
- (III) any opinion issued by the Agency under section 83(2A)(de) of the Act of 1992 on the scope of the environmental impact assessment report, and
- (IV) any further information, including reports and advice, relating to the environmental impact assessment as may be furnished to the Agency in the course of the Agency’s consideration of the application,

shall each be made available on the Agency’s website and at the headquarters of the Agency,”

(c) by the insertion of the following subparagraphs after subparagraph (iii):

“(iv) state that submissions may be made in writing to the Agency in relation to the likely effects on the environment of the proposed activity within the period specified by the Agency on its website under Regulation 4(2)(c), and

(v) state that, in accordance with section 87(2) of the Act of 1992, a proposed determination shall be published by the Agency on its website.”

7. Regulation 6(3)(d) of the Principal Regulations is amended -

(a) in clause (i), by the substitution of “such a report” for “such a statement”,

(b) by the substitution of the following clause for clause (ii):

“(ii) state that -

- (I) the environmental impact assessment report submitted to the Agency in accordance with section 83(2A)(d) of the Act of 1992,
- (II) any information provided to the Agency under paragraph (e) or (f)(ii)(II) of section 83(2A) of the Act of 1992,
- (III) any opinion issued by the Agency under section 83(2A)(de) of the Act of 1992 on the scope of the environmental impact assessment report, and

(IV) any further information, including reports and advice, relating to the environmental impact assessment as may be furnished to the Agency in the course of the Agency's consideration of the application,

shall each be made available on the Agency's website and at the headquarters of the Agency,"

- (c) in subparagraph (iii), by the deletion of "and", and
 - (d) by the insertion of the following subparagraphs after subparagraph (iii):
 - "(iv) state that submissions may be made in writing to the Agency in relation to the likely effects on the environment of the proposed activity within the period specified by the Agency on its website under Regulation 4(2)(c), and
 - (v) state that, in accordance with section 87(2) of the Act of 1992, a proposed determination shall be published by the Agency on its website,
- and".

8. The Principal Regulations are amended by the substitution of the following Regulation for Regulation 11:

"11 (1) Where the Agency is satisfied that an environmental impact assessment report submitted under this Part complies with section 83(2A)(dd) of the Act of 1992 the Agency shall notify the applicant in writing.

(2) Where the Agency is not satisfied that an environmental impact assessment report submitted under this Part complies with section 83(2A)(dd) of the Act of 1992 the Agency shall notify the applicant in writing and may, as it considers appropriate having regard to the circumstances, specify such information or particular as it requires in order to so satisfy itself and a time period within which such information or particular should be submitted in order for the application to be considered further."

9. Regulation 15 of the Principal Regulations is amended -

- (a) by the substitution of the following paragraph for paragraph (1):

"(1) Where -

- (a) the Agency receives an application, other than an application in respect of which a notice in accordance with Regulation 10(2)(b)(i) has been or will be given and it appears to the Agency that the activity, the subject of the application, would or is likely to have significant effects on

the environment in another Member State of the European Union, or

- (b) a Member State of the European Union that is likely to be significantly affected by a project to be carried out in the State which is the subject of an application for a licence so requests,

the Agency shall, as soon as may be after receipt of the application or request, notify the appropriate competent authority in the Member State concerned in accordance with paragraphs (3) and (4).”

- (b) by the substitution of the following paragraph for paragraph (2):
 - “(2) The Agency shall notify the Minister of any notification given in accordance with paragraph (1).”
- (c) by the substitution of the following paragraph for paragraph (3):
 - “(3) A notification given under paragraph (1) shall contain the information specified in paragraphs (a) to (e) (other than paragraph (d)(iv)) of Regulation 5 in relation to the activity the subject of the application, together with any information available on the activity’s possible transboundary impact.”
- (d) by the substitution of the following paragraph for paragraph (4):
 - “(4) The Agency shall specify in the notification given under paragraph (1) a reasonable period of time during which the Member State concerned may indicate whether or not it wishes to participate in the environmental decision-making procedure.”
- (e) by the substitution of the following paragraph for paragraph (5):
 - “(5) Where a Member State of the European Union that has been sent a notification under paragraph (1) indicates that it intends to participate in the environmental decision-making procedure, the Agency shall, before giving any notification under section 87(2) of the Act of 1992 indicating the manner in which it proposes to determine the application, consult with the Member State concerned –
 - (a) regarding, inter alia, the potential transboundary effects of the project and the measures envisaged to reduce or eliminate such effects, and
 - (b) for the purposes of making arrangements, including the establishment of time-frames for consultations, to –
 - (i) make available within a reasonable time to the authorities referred to in Article 6(1) of the EIA Directive, and the members of the public concerned, in the territory of

the Member State likely to be significantly affected, the information specified in paragraphs (a) to (e) (other than paragraph (d)(iv)) of Regulation 5,

- (ii) ensure that those authorities and those members of the public are given an opportunity, before development consent for the project is granted, to forward their opinion on the information made available, within a reasonable time, to the Agency, and
 - (iii) to enable the members of the public concerned in the territory of the affected Member State to participate effectively in the environmental decision-making procedure.”,
- (f) by the insertion of the following paragraphs after paragraph (5):
- “(5A) Where the Minister receives information under paragraph (1) or (2) of Article 7 of the EIA Directive from another Member State of the European Union he or she shall notify the Agency forwarding a copy of the information received.
- (5B) Where the Agency receives a notification from the Minister referred to in paragraph (5A) or receives information referred to in that paragraph from another Member State of the European Union, the Agency shall consult with the Member State concerned-
- (a) regarding, inter alia, the potential transboundary effects of the project and the measures envisaged to reduce or eliminate such effects, and
 - (b) for the purposes of making arrangements, including the establishment of time-frames for consultations, to –
 - (i) make available, within a reasonable time, to the authorities referred to in Regulation 16(1) and to the members of the public concerned-
 - (I) a description of the project, together with any available information on its possible transboundary impact,
 - (II) information on the nature of the decision which may be taken, and

- (III) any information received by the Agency pursuant to Article 7(2) of the EIA Directive,
 - (ii) ensure that those authorities and those members of the public are given an opportunity, before development consent for the project is granted, to forward their opinion on the information made available, within a reasonable time, to the competent authority in the Member State in whose territory the project is intended to be carried out,
- and
- (iii) enable the members of the public concerned in the State to participate effectively in the environmental decision-making procedure.”,
- (g) in paragraph (7), by the substitution of “paragraph (6)” for “paragraph (5)”.

10. Regulation 16 of the Principal Regulations is amended -

- (a) in paragraph (1) -
 - (i) by the insertion of “and” at the end of subparagraph (m), and
 - (ii) by the deletion of subparagraph (n),
- (b) by the substitution of the following paragraph for paragraph (3):

“(3) Where an environmental impact assessment report is received in respect of an application for a licence in accordance with any provision of Part II, the Agency shall notify each authority, person or body to which it has given notice under paragraph (1) that -

 - (a) the environmental impact assessment report submitted to the Agency in accordance with section 83(2A)(d) of the Act of 1992,
 - (b) any information provided to the Agency under paragraph (e) or (f)(ii)(II) of section 83(2A) of the Act of 1992,
 - (c) any opinion issued by the Agency under section 83(2A)(de) of the Act of 1992 on the scope of the environmental impact assessment report, and,
 - (d) any further information, including reports and advice, relating to the environmental impact assessment as may be furnished to the Agency

in the course of the Agency's consideration of the application,

shall each be made available on the Agency's website, and that submissions may be made in writing to the Agency in relation to the likely effects on the environment of the proposed activity within the period specified by the Agency on its website under Regulation 4(2)(c).”,

- (c) by the insertion of the following paragraph after paragraph (3):
- “(4) The notification by the Agency referred to in paragraph (3) shall indicate the name of the planning authority to which the environmental impact assessment report referred to in that paragraph has been submitted.”.



GIVEN under my Official Seal,
27 May, 2020.

RICHARD BRUTON,
Minister for Communication, Climate Action
and Environment.

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