



STATUTORY INSTRUMENTS.

S.I. No. 528 of 2020

EUROPEAN UNION (ENVIRONMENTAL IMPACT ASSESSMENT)
(NATIONAL MONUMENTS ACT 1930) (SECTION 14D) (AMENDMENT)
REGULATIONS 2020

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I, DARRAGH O'BRIEN, Minister for Housing, Local Government and Heritage, 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 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 European Union (Environmental Impact Assessment) (National Monuments Act 1930) (Section 14D) (Amendment) Regulations 2020.

2. (1) In these Regulations “Act of 1930” means the National Monuments Act 1930 (No. 2 of 1930).

(2) A word or expression that is used in these Regulations and that is also used in 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) has the same meaning in these Regulations as it has in that Directive.

3. The Act of 1930 is amended by the substitution, other than in section 14B and section 14C, of “environmental impact assessment report” for “environmental impact statement” in each place where it occurs.

4. Section 14D of the Act of 1930 (inserted by the European Union (Environmental Impact Assessment of Proposed Demolition of National Monuments) Regulations 2012 (S.I. No. 249 of 2012) is amended -

(a) in subsection (1) -

(i) by the insertion of the following definition:

“ ‘Department’ means the Department of Housing, Local Government and Heritage”;

(ii) by the substitution of the following definition for the definition of “environmental impact assessment”:

¹ OJ No. L 26, 28.1.2012, p. 1

² OJ No. L 124, 25.4.2014, p. 1

³ OJ No. L 26, 28.1.2012 p. 1

⁴ OJ No. L 124, 25.4.2014, p. 1

“ ‘environmental impact assessment’, in relation to a decision whether to grant, or refuse to grant, consent or to issue directions which, if granted or issued as the case may be, would result in the demolition of a national monument, means a process in respect of the proposed demolition -

- (a) consisting of -
 - (i) the preparation of an environmental impact assessment report in accordance with subsection (6), or where applicable, subsection (6A),
 - (ii) the carrying out of consultations set out in subsections (17) and (18), (22), (28) and, where relevant, (44),
 - (iii) the examination by the Minister of the information presented in the environmental impact assessment report, any additional information provided, where necessary, by the applicant in accordance with subsection (25) or (26) and any relevant information received through the consultations set out in subsections (17) and (18), (22), (28) and, where relevant, (44),
 - (iv) the reaching by the Minister of the reasoned conclusion referred to in subsection (35) on the significant effects of the proposed demolition on the environment, and
 - (v) the integration of the Minister’s reasoned conclusion into his or her decision to grant, or refuse to grant, the consent or to issue the directions, and
- (b) including an examination, analysis and evaluation by the Minister under this section in order to identify, describe and assess the direct and indirect significant effects of the proposed demolition, including significant effects derived from the vulnerability of the demolition to risks of major accidents and disasters relevant to it, on -
 - (i) population and human health,
 - (ii) biodiversity, with particular attention to species and habitats protected under Council Directive 92/43/EEC of 21 May

1992⁵ and Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009⁶,

- (iii) land, soil, water, air and climate,
 - (iv) material assets, cultural heritage and the landscape, and
 - (v) the interaction between the factors mentioned in subparagraphs (i) to (iv);”.
- (iii) by the insertion of the following definition after the definition of “environmental impact assessment”:
- “ ‘environmental impact assessment report’ shall be construed in accordance with subsection (6);”.
- (iv) by the deletion of the definition of “environmental impact statement”,
- (v) by the substitution of the following definition for the definition of “the Directive”:
- “ ‘the Directive’ means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011⁷, as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014⁸, on the assessment of the effects of certain public and private projects on the environment;”.
- (b) by the insertion of the following substitution after subsection (3):
- “(3A) In carrying out an environmental impact assessment on a proposed demolition under this section, the Minister shall, where appropriate, coordinate the assessment with any assessment of the proposed demolition under Council Directive 92/43/EEC of 21 May 1992³ or Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009⁴.”.
- (c) by the substitution of the following subsection for subsection (6):
- “(6) The applicant shall ensure that an environmental impact assessment report -
- (a) is prepared by competent experts,
 - (b) subject to subsection (6A), contains the following information:
 - (i) a description of the proposed demolition, comprising information on the site, design, size and other relevant features of the proposed demolition;

⁵ OJ No. L 206, 22.7.1992, p. 7

⁶ OJ No. L 20, 26.1.2010, p. 7

⁷ OJ No. L 26, 28.1.2012 p. 1

⁸ OJ No. L 124, 25.4.2014, p. 1

- (ii) a description of the likely significant effects of the proposed demolition on the environment;
- (iii) a description of the features of the proposed demolition and of measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;
- (iv) a description of the reasonable alternatives studied by the applicant which are relevant to the proposed demolition and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the proposed demolition on the environment;
- (v) a non-technical summary of the information referred to in points (i) to (iv); and
- (vi) any additional information specified in Annex IV of the Directive that is relevant to the specific characteristics of the proposed demolition or type of proposed demolition and to the environmental features likely to be affected;

and

- (c) takes into account the available results of other relevant assessments carried out pursuant to any Act of the Oireachtas or under European Union legislation with a view to avoiding duplication of assessments.”,
- (d) by the insertion of the following subsection after subsection (6):
 - “(6A) Where the Minister issues an opinion under subsection (7) the applicant shall -
 - (a) prepare the environmental impact assessment report based on that opinion, and
 - (b) include in the report the information that may reasonably be required for reaching a reasoned conclusion on the significant effects of the proposed demolition on the environment, taking into account current knowledge and methods of assessment.”,
- (e) by the substitution of the following subsection for subsection (7):
 - “(7) The Minister shall, on the request of an applicant made before the applicant submits an environmental impact assessment report -

- (a) consult -
 - (i) the Director of the National Museum of Ireland,
 - (ii) the local authority in whose functional area the relevant national monument is situated,
 - (iii) the regional assembly, if any, established in accordance with section 43 (as amended by the Local Government Reform Act 2014) of the Local Government Act 1991 for the area in which the relevant monument is situated, and
 - (iv) any other person that the Minister considers appropriate in the circumstances,
 and
- (b) taking into account the information provided by the applicant, in particular on the specific characteristics of the proposed demolition, including its location and technical capacity, and its likely impact on the environment, issue an opinion on the scope, and level of detail, of the information to be included by the applicant in the environmental impact assessment report in accordance with subsection (6).”,
- (f) by the insertion of the following subsection after subsection (11):

“(11A) Where the Minister provides an opinion under subsection (7) the Minister shall make an electronic version of that opinion and the documents specified in subsection (10) available to the public on the website of the Department at the same location as the information referred to in subsection (20A).”,
- (g) by the substitution of the following subsection for subsection (18):

“(18) A notice under subsection (17) shall state the following:

 - (a) that a decision which could result in the demolition of a national monument is pending before the Minister;
 - (b) the location, townland or postal address of the land on which the national monument is situated;
 - (c) the nature and extent of the proposed demolition;
 - (d) that the proposed demolition is to be subject to an environmental impact assessment;
 - (e) the name of the applicant, and that the applicant is to submit an environmental impact assessment report to the Minister in respect of the proposed

demolition,

- (f) that the environmental impact assessment report will be available for inspection free of charge or purchase at a fee not exceeding the reasonable cost of making a copy, during office hours, at the offices of the Department, or such other convenient place as the Minister may specify, and on the Department's website;
- (g) that submissions or observations in relation to the environmental impact assessment may be made in writing to the Minister within 5 weeks of the date of the environmental impact assessment report being published by the Minister in accordance with subsection (20A).”,
- (h) by the substitution of the following subsection for subsection (20):

“(20) When submitting an environmental impact assessment report to the Minister under this section the applicant shall accompany it with a copy of the relevant page of the newspaper in which a notice under subsection (17) was published and an electronic copy of both the environmental impact assessment report and the newspaper notice, searchable by electronic means as far as practicable.”,
- (i) by the insertion of the following subsection after subsection (20):

“(20A) Where the Minister receives an environmental impact assessment report under this section he or she shall make it available in the manner specified in the notice under subsection (17) and shall make an electronic copy of both the environmental impact assessment report and the newspaper notice under subsection (17), searchable by electronic means as far as practicable, available on the website of the Department.”,
- (j) in subsection (21), by the insertion of “an electronic version of that further notice, searchable by electronic means as far as possible, together with” after “and to provide to the Minister”,
- (k) by the insertion of the following subsection after subsection (21):

“(21A) The Minister shall make an electronic copy of any notice published under subsection (21), searchable by electronic means as far as practicable, available on the website of the Department at the same location as the information referred to in subsection (20A).”,
- (l) in subsection (22) -
 - (i) by the substitution of “that report” for “that statement”, and
 - (ii) by the insertion of “the regional assembly, if any, established in accordance with section 43 (as amended by the Local Government Reform Act 2014) of the Local

Government Act 1991 for the area in which the relevant monument is situated” after “the local authority in whose functional area the relevant monument is situated”,

- (m) by the insertion of the following subsection after subsection (23):

“(23A) The Minister shall ensure that he or she has access to sufficient expertise to examine the environmental impact assessment report submitted under this section.”,

- (n) in subsection (26), by the substitution of “in accordance with Annex IV of the Directive, which is directly relevant to reaching the reasoned conclusion on the significant effects of the demolition on the environment” for “which the Minister considers necessary to enable him or her to carry out an environmental impact assessment”,

- (o) by the insertion of the following subsection after subsection (33):

“(33A) The Minister shall make an electronic copy of each of the following available on the website of the Department at the same location as the information referred to in subsection (20A):

- (a) any further information referred to in subsection (28)(a);
- (b) any notification referred to in subsection (28)(b);
- (c) any notice referred to in subsection (28)(c);
- (d) any further notice required by the Minister under subsection (33).”,

- (p) by the substitution of the following subsection for subsection (35):

“(35) In carrying out an environmental impact assessment under this section the Minister shall duly take into account -

- (a) the environmental impact assessment report submitted to the Minister,
- (b) any further information submitted to the Minister under this section,
- (c) any submissions or observations made in accordance with this section in relation to the environmental effects of the proposed demolition of the relevant national monument,
- (d) the views, if any, provided by any other Member State under this section,

and reach a reasoned conclusion on the significant effects of the proposed demolition on the environment.”,

- (q) by the substitution of the following subsection for subsection (36):

“(36) The Minister having reached a reasoned conclusion under subsection (35), and being satisfied that the reasoned conclusion remains up-to-date, shall make a decision to grant, or refuse to grant, consent or to issue directions within a reasonable period of time following receipt of an environmental impact assessment report or, where the Minister requires further information under subsection (25) or (26), following receipt of such further information.”,

- (r) in subsection (45), by the substitution of “decision to grant, or refuse to grant, consent or to issue directions” for “decision as to whether or not to grant consent or issue directions in respect of the proposed demolition of the relevant national monument”,
- (s) by the insertion of the following subsections after subsection (45):

“(45A) A decision to grant consent or to issue directions which will result in the demolition of a national monument shall include

-

- (a) the reasoned conclusion referred to in subsection (35),
- (b) any conditions, requirements or similar matters attached to the consent or contained in the directions under subsection (39), including those regarding monitoring measures, parameters to be monitored and the duration of monitoring, and
- (c) a description of any features of the proposed demolition, or any measures envisaged, to avoid, prevent or reduce, or offset significant adverse effects on the environment.

(45B) A decision to refuse to grant consent or to issue directions which, if granted or issued as the case may be, would result in the demolition of a national monument shall include the main reasons for the decision.”,

- (t) by the substitution of the following subsection for subsection (46):

“(46) Where the Minister makes a decision referred to in subsection (45A) or (45B) he or she shall, as soon as may be following making the decision, publish in at least one newspaper circulating in the district in which the relevant national monument is situated -

- (a) notice of the decision,
- (b) notice that a copy of the decision is available for inspection at the offices of the Department,
- (c) notice that a copy of the decision is available in electronic form on the website of the Department at the same location as the information referred to in subsection (20A), and

- (d) notice that practical information regarding the judicial review procedures by which a person may seek to question the validity of a determination by the Minister made under this section can be found in electronic form on the website of the Department at the same location as the information referred to in subsection (20A)."
- (u) by the substitution of the following subsection for subsection (47):

“(47) Where the Minister makes a decision referred to in subsection (45A) or (45B) he or she shall make available at the offices of the Department and in electronic form on the website of the Department at the same location as the information referred to in subsection (20A) in accordance with any notice published under subsection (46) -

 - (a) the decision and the main reasons and considerations on which the decision is based, including -
 - (i) information about the public participation process,
 - (ii) a summary of the results of the submissions or observations gathered pursuant to this section and where information was sent to another Member State in accordance with subsection (42), the results of consultations and the information gathered under subsection (44), and,
 - (iii) a description of how the results referred to in clause (ii) have been incorporated or otherwise addressed,
 - (b) practical information on the review mechanism to question the validity of the decision by the Minister.”,
- (v) by the insertion of the following subsection after subsection (48):

“(48A) The Minister shall ensure that any conditions, requirements or similar matters attached to the consent or contained in the directions under subsection (39), including those regarding monitoring measures, parameters to be monitored and the duration of monitoring and that any feature of the demolition or measure envisaged to avoid, prevent, reduce, or offset significant adverse effects on the environment are implemented.”,

and
- (w) by the deletion of subsection (48).



GIVEN under my Official Seal,
12 November, 2020.

DARRAGH O'BRIEN,
Minister for Housing, Local Government and Heritage.

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