

16. What is the role of the Environmental Protection Agency?

The EPA has responsibility for preventing and controlling environmental emissions from certain activities with potential for significant impact on the environment, through the operation of a system of integrated pollution control (IPC) licensing. The objective of the IPC system is to ensure that relevant activities operate to a standard which provides a high level of protection for the environment. The system is based on the application of BATNEEC (best available technology not entailing excessive costs) in order to prevent or eliminate, or where that is not practicable, to limit, abate or reduce emissions from activities.

Such development activities require planning consent and an IPC licence. The projects to be licensed by the EPA are set out in the First Schedule to the Environmental Protection Agency Act 1992. In cases where an EIS is required to be submitted with a planning application to a planning authority, the EIS must also accompany the application to the EPA for an IPC licence. For further information in relation to IPC licensing, please contact the Environmental Protection Agency at (053) 60600 or at its website, www.epa.ie.

Article 28(1)(l) of the Planning and Development Regulations 2001 to 2002 requires a planning authority to notify the EPA of a planning application where the development comprises or is for the purposes of an activity in relation to which an IPC licence is required. The notification to the EPA must include a copy of the planning application and any EIS. The EPA is given 5 weeks from the date of the application to make a submission or observation in relation to the application.

Section 98(1) of the EPA Act 1992 (as amended by section 256 of the 2000 Planning Act) provides that, where a planning authority decides to grant planning permission for development which comprises or is for the purposes of an activity in relation to which an IPC licence is required, it cannot impose conditions which are for the purposes, inter alia, of controlling emissions from the operation of the activity, including the prevention, limitation, elimination, abatement or reduction of those emissions. However, Section 98(1)(A) of the EPA Act 1992 (as inserted by section 256 of the 2000 Planning Act) allows a planning authority to refuse planning permission for such a

development where it considers that the development is unacceptable on environmental grounds.

The law governing the planning system, including EIA requirements, is set out in the Planning and Development Acts 2000 and 2001 and the Planning and Development Regulations 2001 to 2002. The Environmental Protection Agency Act, 1992, and the Environmental Protection Agency (Licensing) Regulations, 1994 (S.I. No. 85 of 1994) set out requirements for cases requiring IPC licensing. All legislation may be purchased from the Government Publications Sales Office, Sun Alliance House, Molesworth Street, Dublin 2, Telephone (01) 6476995/4.

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Tá leagan Gaeilge den bhileog seo ar fáil.

PL 9 - Environmental Impact Assessment

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This leaflet is a simple guide to Environmental Impact Assessment (EIA) within the planning system.

The leaflet is intended as a practical guide to the operation of the procedures which apply where an Environmental Impact Statement (EIS) is required as part of a planning application. It is not a definitive interpretation of planning law. For more information you should contact your local planning authority.

1. What is Environmental Impact Assessment (EIA)?

Environmental Impact Assessment (EIA) is a procedure for:

- systematic examination of the likely significant effects on the environment of a proposed development;
- ensuring that adequate consideration is given to any such effects; and
- avoiding, reducing or offsetting any significant adverse effects.

The process begins with the preparation of an Environmental Impact Statement (EIS) by the developer. Active public involvement in the assessment of the EIS is encouraged. The assessment procedure is carried out by the planning authority as part of the processing of the relevant planning application and by An Bord Pleanála in the event of an appeal. The EIA procedure is designed to ensure that measures to improve a proposal can be taken at the earliest opportunity.

2. What types of development require EIA?

Generally, large scale developments, including agriculture, food industry, chemical industry, infrastructure and urban developments, require an EIA. In some cases, EIA is mandatory irrespective of the size of the project. In most cases, however, a threshold is set and if this is exceeded, the project must be subject to EIA. Even if thresholds are not exceeded, the planning authority (or An Bord Pleanála in the case of a planning appeal) must require the preparation of an EIS if it considers that the project would have significant effects on the environment. The full list of projects and threshold limits are set out in Schedule 5 to the Planning and Development Regulations 2001 to 2002.

3. How does EIA work?

The developer prepares an Environmental Impact Statement (EIS), which is submitted with the planning application for

assessment as part of the planning authority's consideration of the application. (It is not possible to apply for outline permission in EIA cases because of the type of detailed information required in an EIS). The newspaper and site notices relating to the planning application must refer to the EIS. The EIS is available for inspection and purchase at the offices of the planning authority. Any member of the public or any organisation may comment on the project and its possible environmental effects on payment of the required fee. These comments must be taken into account by the planning authority. The decision of the planning authority on the application can be appealed to An Bord Pleanála in the normal way. See leaflet PL. 10.

4. What is an EIS?

An Environmental Impact Statement (EIS) should contain an analysis of the likely effects, good and bad, of a project on the environment. It will set out any measures to be taken to avoid or moderate any adverse environmental effects and should identify decisions already taken by the developer for this purpose.

5. What does an EIS include?

It must include:

- a description of the proposed development;
- an outline of alternatives (e.g. processes or locations) studied by the developer;
- data necessary to identify and assess the main effects which it is likely to have on the environment; and
- a description of these effects by reference to many factors such as people, flora, fauna, soil, water, air, landscape, cultural heritage, etc.

Where significant adverse effects are identified, the statement must also include:

- a description of the measures envisaged to avoid, reduce or remedy these effects.

The EIS must contain a non-technical summary so that it can be understood by the lay person.

6. Do I need help preparing an EIS?

EIS's can be complex documents, sometimes of a highly technical nature. It will almost certainly be necessary to engage experts in various fields when preparing an EIS. You are strongly advised to contact the planning authority for pre-application consultations if your proposal involves preparation of an EIS. These will help you scope the EIS i.e. help identify which aspects should be covered, the amount of detail required and relevant agencies who should be consulted e.g. EPA, Dúchas. Careful scoping will ensure that your EIS addresses all important issues, and will help avoid requests for further information, which could delay a decision on your application.

The EPA has published Guidelines on the Information to be contained in Environmental Impact Statements. Regard must be had to EPA Guidelines when preparing an EIS. For further information on the Guidelines you may contact the Environmental Protection Agency at (053) 60600 or at its website www.epa.ie.

7. How long does the EIA process take?

A planning authority must decide an application with an EIS within 8 weeks of its receipt, or where further information has been requested from the applicant, within 8 weeks of receipt of that information.

8. How will I know an EIS has been submitted?

Where an EIS is to accompany an application for planning permission, the press notice and site notice must include a reference to the EIS. See PL. 2 for further information in relation to press and site notice requirements. The weekly list of planning applications published by planning authorities must identify any case which involves an EIS. Such lists are made available to residents' associations, interest groups etc. on request.

9. Where can I see an EIS?

An EIS is available for public inspection, free of charge, at the offices of the planning authority during office hours, from the date of receipt of the EIS. Where the decision of the planning authority is appealed to An Bord Pleanála, the EIS will also be available at the offices of the Board.

10. Can I get a copy of an EIS?

Yes. A copy of any EIS or extracts from the EIS can be purchased at a reasonable cost from the planning authority or An Bord Pleanála.

11. Can I comment on an EIS?

Yes. As with all planning applications, any person or organisation may comment in writing on an application which includes an EIS. The planning authority is obliged to take account of all submissions and observations when making its decision on the application. Comments must be made, subject to payment of the required fee, within the period of 5 weeks from the date of receipt by the planning authority of the application.

12. Where do I make my comments?

You should address all comments relating to an EIS, in writing, to the planning authority dealing with the planning application.

13. Will I be informed of the decision?

Yes. The planning authority is obliged to inform, by post, anyone who has made written comments, within 3 days of its decision on a planning application, including one involving an EIS.

14. Can I appeal against a planning decision?

Yes. Any person who makes a valid submission on a planning application (including one involving an EIS) can appeal, on payment of the required fee to An Bord Pleanála. Written observations on someone else's appeal can be made. The Board must publish a newspaper notice of any appeal involving an EIS.

For details on the appeals process, fees, time limits, etc. see PL.10 – Making a Planning Appeal.

15. Can An Bord Pleanála request the submission of an EIS?

When an appeal is made to the Board, and the Board considers the project would have significant effects on the environment, it must require the developer to prepare an EIS, where the planning authority did not look for one. The processing of the appeal will be held in abeyance until the EIS, and any other information requested, has been received. Public notice of receipt of the EIS will be given by the Board. The EIS will be available for inspection or purchase at the Board's offices and also at the offices of the planning authority.