



To: Directors of Planning Services, City and County Councils
Senior Planners, City and County Councils
An Bord Pleanála

CC: Chief Executives, City and County Councils,
Directors of Regional Assemblies
Office of the Planning Regulator

Circular Letter EPP 01/2019

9 August 2019

European Union (Environmental Impact Assessment and Habitats) (Section 181 of the Planning and Development Act 2000) Regulations 2019 (S.I. No. 418 of 2019)

I am directed by Mr Eoghan Murphy, T.D., Minister for Housing, Planning and Local Government to advise of new regulations entitled the European Union (Environmental Impact Assessment and Habitats) (Section 181 of the Planning and Development Act 2000) Regulations 2019 (S.I. No. 418 of 2019), which were signed 6 August 2019 and came into effect on that date. A copy of these regulations is enclosed at Appendix 1 and can be found on the Irish Statute Book at <http://www.irishstatutebook.ie/eli/2019/si/418/made/en/pdf>.

The new regulations provide for amendments to the Ministerial order provisions under Section 181(2) of the Planning and Development Act 2000 (the Act) to ensure compliance with European Union (EU) environmental law - specifically, Directive 2011/92/EU as amended by Directive 2014/52/EU on the assessment of the effects of certain public and private projects on the environment, and Council Directive 92/43/EEC - commonly known as the Environmental Impact Assessment (EIA) Directive and the Habitats Directive, respectively.

The amendments introduce a new approval procedure under the remit of An Bord Pleanála facilitating environmental assessments for certain projects necessitated by reason of an accident or emergency, which are to be the subject of an emergency order made by a Government Minister under Section 181(2) of the Act, and are likely to have significant effects on the environment and/or adverse effects on the integrity of a European site, and therefore require environmental impact assessment (EIA) and/or appropriate assessment (AA). In such circumstances, the Minister concerned cannot make an order under Section 181(2) of the Act other than in accordance with an approval. This procedure is set out in new subsections (2A) to (2AA) of Section 181 of the Act.



Furthermore, the regulations amend Section 181 of the Act to provide that, before the Minister concerned makes an order under Section 181(2) of the Act, he or she must inform the Minister for Housing, Planning and Local Government and any other relevant State authority, as appropriate, of his or her intention to make such an order. The regulations also provide the Board with the discretion to grant an exemption from the requirement to prepare an Environmental Impact Assessment Report (EIAR) or to carry out an EIA in respect of an application for approval made under Section 181(2A) of the Act in specified circumstances.

Planning authorities will have the opportunity to make submissions or observations in respect of applications for approval made to the Board under Section 181(2A) of the Act. Under Section 181(2B)(b) of the Act, before a Minister concerned makes an application for approval to the Board he or she is required to send a copy of the application and the EIAR or Natura Impact Statement (NIS), or both, to the planning authority or authorities in whose functional area(s) the proposed development would be situated. The relevant planning authority or authorities may make submissions or observations in writing to the Board in relation to the likely significant effects on the environment or adverse effects on the integrity of a European Site of the proposed development if carried out. In addition, under Section 181(2M)(a) of the Act, the Board must send a copy of its decision to the relevant planning authority or authorities.

Planning authorities are requested to note in particular the new requirement of Section 181(2AA) of the Act. In this context, where an application for approval is made to the Board, or where further information is furnished to the Board in respect of such an application, the Minister concerned is required to forward a copy of the application and EIAR or NIS, or the further information, to the planning authority or authorities in whose functional areas the proposed development would be situated. The relevant planning authority or authorities are, in turn, required as soon as possible to make such documentation available for inspection at their offices during office hours.

Any queries in relation to this Circular Letter can be directed to Mary Brady at environmentalplanning@housing.gov.ie or phone 01 888 2000.

A handwritten signature in black ink that reads "Eamonn Kelly".

Eamonn Kelly
Principal
Environmental Planning Policy