



To: Directors of Planning Services, City and County Councils

CC: Chief Executives, City and County Councils  
Senior Planners, City and County Councils  
An Bord Pleanála  
Directors of Regional Assemblies  
Office of the Planning Regulator

**Circular Letter: EUIPR 02/2020**

23 July 2020

**Section 173C of the Planning and Development Act 2000 on Environmental impact assessment relating to waste water discharges as inserted by the European Union (Waste Water Discharge) Regulations 2020**

I am writing to bring to your attention a recent amendment to the Planning and Development Act 2000 (the Planning Act), made under Regulation 5 of the European Union (Waste Water Discharge) Regulations 2020 (S.I. No. 214 of 2020), which inserted a new section 173C concerning Environmental Impact Assessment (EIA) obligations relating to waste water discharges into the Planning Act. The European Union (Waste Water Discharge) Regulations 2020 and consequently the new section 173C of the Planning Act came into operation **30 June 2020**. A copy of these Regulations is enclosed at Appendix 1.

The 2020 Regulations principally amend the Waste Water Discharge (Authorisation) Regulations 2007 in order to transpose the Environmental Impact Assessment (EIA) Directive 2014/52/EU into the Environmental Protection Agency's (EPA) waste water discharge authorisation system. The 2020 Regulations also ensure that an EIA is carried out, where required, in relation to relevant decisions of the EPA to grant a waste water discharge authorisation where a land-use consent is also required. A summary of the amendments to the EPA's waste water discharge authorisation system introduced under the 2020 Regulations was circulated to local authorities from the Department's Water Policy Section by email on 23 June 2020. This summary outlined that provision has been made for:

- notification (to the EPA) as to whether an environmental impact assessment report was provided by or sought from an applicant for land-use consent where an application for an authorisation for a waste water discharge is made;





- consultations between the Environmental Protection Agency, and the relevant local authority or An Bord Pleanála as appropriate, in relation to applications for authorisations for waste water discharges where an environmental impact assessment report has been prepared;
- finalisation of the grant of permission or refusal to grant permission under the Planning and Development Act 2000 before deciding on the application for an authorisation for a waste water discharge where an environmental impact assessment report had been prepared;

The amendments to the Planning Act under the 2020 Regulations – the new section 173C - are consequential to the above and mirror the existing provisions regarding EIA set out in section 173A for integrated pollution prevention and control (now IPC) licences and section 173B for waste licences of the Planning Act. In summary, section 173C provides that:

- (1) Where a planning authority/the Board is considering an application for permission for development also requiring a waste water discharge licence, upon request from the applicant they must within 3 days give written confirmation of that fact and, where relevant, that an EIA is not required as part of the planning application;
- (2) Where a planning authority/the Board has granted permission for development also requiring a waste water discharge licence (which was not subject to EIA as part of the planning application), upon request from the applicant they must within 3 days give written confirmation that an EIA was not required as part of the planning application;
- (3) Where a planning authority/the Board is considering an application for permission for development also requiring a waste water discharge licence (which is subject to EIA as part of the planning application) they must comply with an EPA request in respect of the waste water discharge licence application within 4 weeks. In this context, the EPA will request any submissions that the planning authority/Board may have in relation to the licence application;
- (4) Where a planning authority/the Board has granted permission for development also requiring a waste water discharge licence (which was subject to EIA as part of the planning application) they must comply with an EPA request in respect of a waste water discharge licence application within 4 weeks. In this context, the EPA will request –
  - confirmation whether the waste water discharge the subject of the licence application has planning permission, and



- that both the documents related to the EIA carried out by the planning authority/Board and any submissions the planning authority/Board may have on the licence application be furnished;
- (5) Where the EPA require the submission of an Environmental Impact Assessment Report (EIAR) as part of a licence application which was not accompanied by an EIAR, then the planning authority/Board must comply with a request from the EPA for submissions on the licence application (including the EIAR) within 5 weeks;
- (6) Where a planning authority/the Board is considering an application for permission for development also requiring a waste water discharge certificate, upon request from the applicant they must within 3 days give written confirmation of that fact. In giving this confirmation the planning authority/Board must also include confirmation that the proposed development does not require EIA as part of the planning application, where relevant;
- (7) Where a planning authority/the Board has granted permission for development also requiring a waste water discharge certificate (which was not subject to EIA as part of the planning application), upon request from the applicant they must within 3 days give written confirmation that an EIA was not required as part of the planning application;
- (8) Where a planning authority/the Board is carrying out EIA screening in respect of a planning application for permission for development under consideration and is of the opinion that the development also requires a waste water discharge authorisation, they must invite the EPA's observations on the planning application within a specified period and must consider any such views received from the EPA when making its screening determination;
- (9) Where a person applies to a planning authority/the Board for permission and either has made, or proposes to make, an application for waste water discharge authorisation (i.e. a licence or certificate (or review thereof)) in connection with that application, that person must give written notice to the planning authority/Board of having made such application to the EPA, or proposal to do so, when making the planning application.

In the context of the above, "permission" means permission under Part III, approval under section 175, 177AE, 181B, 182B, 182D or 226, or substitute consent under section 177K of the Planning Act.

Please be advised that the above summary has been prepared by the Department for ease of reference only and does not constitute an interpretation of the legislation, which is a matter



for local authorities or An Bord Pleanála, and the EPA as the case may be, in the first instance and ultimately a matter for the Courts.

Any queries in relation to this Circular letter should be emailed to [euplanningregulation@housing.gov.ie](mailto:euplanningregulation@housing.gov.ie) .

Eamonn Kelly  
Principal Officer  
EU & International Planning Regulation