



STATUTORY INSTRUMENTS.

**S.I. No. 114 of 2013**

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EUROPEAN UNION (ENVIRONMENTAL IMPACT ASSESSMENT OF  
MATERIAL ALTERATIONS OF APPROVED ROAD DEVELOPMENTS  
CONSEQUENT ON MINISTERIAL DIRECTIONS IN RESPECT OF  
DISCOVERIES OF NATIONAL MONUMENTS) REGULATIONS 2013

EUROPEAN UNION (ENVIRONMENTAL IMPACT ASSESSMENT OF MATERIAL ALTERATIONS OF APPROVED ROAD DEVELOPMENTS CONSEQUENT ON MINISTERIAL DIRECTIONS IN RESPECT OF DISCOVERIES OF NATIONAL MONUMENTS) REGULATIONS 2013

I, JIMMY DEENIHAN, Minister for Arts, Heritage and the Gaeltacht, 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<sup>1</sup> of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment, in so far as it applies to material alterations of approved road developments, hereby make the following regulations:

*Citation*

1. These Regulations may be cited as European Union (Environmental Impact Assessment of Material Alterations of Approved Road Developments Consequent on Ministerial Directions in Respect of Discoveries of National Monuments) Regulations 2013.

*Interpretation*

2. (1) In these Regulations—

“Act of 1930” means the National Monuments Act 1930 (No. 2 of 1930);

“Act of 2004” means the National Monuments (Amendment) Act 2004 (No. 22 of 2004).

*Amendment of section 14B of Act of 1930*

3. Section 14B (inserted by section 5 of the Act of 2004) of the Act of 1930 is amended—

(a) in subsections (3)(b)(ii) and (4), by deleting “adverse”,

(b) by substituting the following subsections for subsections (5) to (7):

“(5) Where the Board makes a determination that a material alteration is likely to have significant effects on the environment, the Board shall ensure that the material alteration has been subject to an environmental impact assessment.

(6) Where the Board makes a determination that a material alteration is likely to have significant effects on the environment, the Board shall require the road authority to submit to it an environmental impact statement in respect of the material alteration.

<sup>1</sup>O.J. No. L26, 28.1.2012, p.1

(7) In making a determination as to whether a material alteration is likely to have significant effects on the environment, the Board shall have regard to the criteria specified in Annex III of the Directive.

(7A) Subject to subsection (7F), an environmental impact statement submitted to the Board under this section shall include, in relation to the material alteration, the information specified in Annex IV of the Directive.

(7B) If a road authority, before submitting an environmental impact statement in accordance with this section, so requests, the Board shall, after consulting the road authority, any prescribed person or body and any other person or body as the Board considers appropriate, give a written opinion on the information to be contained in that statement.

(7C) A request under subsection (7B) for a written opinion on the information to be contained in an environmental impact statement shall state the following:

- (a) the name and address, and telephone number and e-mail address, of the road authority;
- (b) the location of the land affected or likely to be affected by the material alteration; and
- (c) a brief description of the material alteration and of its possible effects on the environment.

(7D) Where the Board considers that it has insufficient information to enable it to give a written opinion in relation to a request under subsection (7B), the Board shall, as soon as may be, inform in writing the road authority that it is required to submit in writing specified further information within a specified time and the road authority shall comply with that requirement.

(7E) In dealing with a request under subsection (7B), the Board shall have regard to:

- (a) the information required to enable the Board to exercise its function under subsection (5) or to ensure compliance with the Directive;
- (b) any information provided under subsection (7C) and any further information submitted under subsection (7D); and
- (c) the consultations under subsection (7B).

(7F) A written opinion provided by the Board under subsection (7B) shall indicate the extent to which the information specified in Annex IV of the Directive should be contained in the environmental

impact statement to which the request made under subsection (7B) related.

(7G) The giving by the Board of a written opinion under subsection (7B) shall not prevent the Board from requiring a road authority to submit further information under this section.

(7H) Subject to subsection (7I), the Board may, at the request of the road authority and having consulted any prescribed person or body and any other person or body as the Board considers appropriate, grant, in respect of a material alteration, an exemption from the requirements of this section where it is satisfied that exceptional circumstances so warrant.

(7I) An exemption shall not be granted under subsection (7H) if another Member State, having been informed about the material alteration and its likely effects on the environment in that State, has indicated to the Board that it intends to furnish views to the Board on those effects.

(7J) The Board shall, in granting an exemption under subsection (7H), consider whether the effects, if any, on the environment of the material alteration should be assessed in some other manner.

(7K) The Board shall inform the public of its decision under subsection (7J) and, if its decision is that an alternative assessment is required, it shall also inform the public of—

- (a) the information obtained during the course of the alternative assessment,
- (b) the manner in which the public can provide observations during the course of the alternative assessment, and
- (c) the outcome of the alternative assessment.

(7L) The Board may apply such requirements regarding an alternative assessment referred to in subsection (7K) as it considers necessary or appropriate and the road authority shall comply with those requirements.

(7M) Notice of any exemption granted under subsection (7H), of the reasons for granting the exemption and of any requirements applied under subsection (7K) shall, as soon as may be—

- (a) be published by the Board in *Iris Oifigiúil* and in at least one newspaper circulating in the district in which the land affected, or likely to be affected, by the material alteration is situated, and

- (b) be given by the Board, together with a copy of the information made available to the public in accordance with subsection (7K), to the Commission of the European Union.

(7N) Where a road authority is required under this section to submit an environmental impact statement, the road authority shall, not more than 2 weeks before submitting the environmental impact statement, publish notice of its intention to do so in at least one newspaper circulating in the district in which the land affected, or likely to be affected, by the material alteration is located.

(7O) A notice under subsection (7N) shall state the following:

- (a) the name of the road authority required to submit the environmental impact statement;
- (b) the location of the land affected, or likely to be affected, by the material alteration;
- (c) the nature and extent of the material alteration;
- (d) that an environmental impact statement in relation to the material alteration will be submitted to the Board in accordance with this section;
- (e) that the environmental impact statement will be available for inspection free of charge or for purchase, at a fee not exceeding the reasonable cost of making a copy, during office hours at the offices of the Board or such other convenient place as the Board may specify; and
- (f) that submissions or observations in relation to the environmental impact statement may be made in writing to the Board within 5 weeks of the date of receipt by the Board of the environmental impact statement.

(7P) The Board shall specify such arrangements as it considers appropriate to allow the matters referred to in paragraphs (e) and (f) of subsection (7O) to have effect.

(7Q) When submitting an environmental impact statement to the Board under this section, the road authority shall accompany it with a copy of the relevant page of the newspaper in which a notice under subsection (7N) was published.

(7R) Where it appears to the Board that a notice published under subsection (7N)—

- (a) does not comply with any of the requirements of subsection (7N) or (7O), or

- (b) because of its content or for any other reason, is misleading or inadequate for the information of the public,

the Board shall require the road authority to publish further notice in the manner specified by the Board and to provide to the Board evidence that that further notice has been so published and the road authority shall comply with those requirements.

(7S) Where a road authority submits an environmental impact statement to the Board under this section, the Board shall, as soon as may be following receipt of that statement, send a copy of the environmental impact statement to any prescribed person or body and any other person or body as the Board considers appropriate.

(7T) The Board shall, when sending an environmental impact statement to a person or body under subsection (7S), inform the person or body that a submission or observation in relation to the effects on the environment of the material alteration may be made in writing to the Board within 5 weeks of the date of receipt by the Board of the environmental impact statement.

(7U) The Board shall consider whether an environmental impact statement submitted under this section:

- (a) complies with the requirements of this section;
- (b) complies with a written opinion, if any, given under subsection (7B), and
- (c) identifies and describes adequately the direct and indirect effects on the environment of the material alteration.

(7V) Where the Board considers that an environmental impact statement submitted under this section—

- (a) does not comply with the requirements of this section,
- (b) does not comply with a written opinion given under subsection (7B), or
- (c) does not identify or describe adequately the direct and indirect effects on the environment of the proposed material alteration,

the Board shall require the road authority to submit to it any further information the Board considers necessary for the purpose of remedying the matters referred to in paragraphs (a) to (c), and the road authority shall comply with that requirement.

(7W) In addition to any requirement arising under subsection (7V), the Board shall require a road authority to provide any further

information which the Board considers necessary to enable it to carry out an environmental impact assessment, and the road authority shall comply with that requirement.

(7X) The Board shall give notice in writing to the road authority of any requirement for further information under subsection (7V) or (7W) and any notice so given to a road authority shall, where applicable, specify in what way the relevant environmental impact statement does not comply with this section or with a written opinion given under subsection (7B) or does not identify or describe adequately the direct and indirect effects on the environment of the material alteration.

(7Y) Where the Board considers that further information submitted under subsection (7V) or (7W) contains significant additional data in relation to the effects on the environment of the material alteration, the Board shall, as soon as may be after receipt of that further information—

- (a) send a copy of the further information to any person or body consulted under subsection (7S) and inform that person or body that a submission or observation in relation to the further information may be made in writing to the Board within a specified period,
- (b) notify any person or body who or which, as the case may be, made a submission or observation in relation to the material alteration of the matters specified in subsection (7AA), and
- (c) require the road authority to publish a notice in at least one newspaper circulating in the district in which the land affected, or likely to be affected, by the material alteration is located of the matters specified in subsection (7AB).

(7Z) A road authority shall comply with a requirement under subsection (7Y)(c).

(7AA) The matters specified for the purpose of subsection (7Y)(b) are:

- (a) that significant additional data in relation to the effects on the environment of the material alteration has been provided to the Board and that the further information submitted to the Board containing that data is available for inspection, free of charge or for purchase at a fee not exceeding the reasonable cost of making a copy, at the offices of the Board or such other convenient place as the Board may specify; and

(b) that a submission or observation in relation to the further information may be made in writing to the Board within a period specified by the Board.

(7AB) The matters specified for the purpose of subsection (7Y)(c) are:

- (a) the name of the road authority required to submit the relevant environmental impact statement;
- (b) the location of the land affected, or likely to be affected, by the material alteration;
- (c) that significant additional data in relation to the effects on the environment of the material alteration been provided to the Board and that the further information submitted to the Board containing the data is available for inspection, free of charge or for purchase at a fee not exceeding the reasonable cost of making a copy, at the offices of the Board or such other convenient place as the Board may specify; and
- (d) that a submission or observation in relation to the further information may be made in writing to the Board within a period specified by the Board.

(7AC) The Board shall specify such arrangements as it considers appropriate to allow the matters referred to in paragraphs (a) and (b) of subsection (7AA) and paragraphs (c) and (d) of subsection (7AB) to have effect.

(7AD) Where it appears to the Board that a notice published under subsection (7Y)(c)—

- (a) does not comply with any of the requirements of subsection (7Y)(c) or (7AB), or
- (b) because of its content or for any other reason, is misleading or inadequate for the information of the public,

the Board shall require the road authority to publish a further notice in the manner specified by the Board and to provide to the Board evidence that that further notice has been so published and the road authority shall comply with those requirements.

(7AE) Where the Board considers that a material alteration which is the subject of an environmental impact statement under this section would be likely to have significant effects on the environment in another Member State, or where another Member State considers that the material alteration would be likely to have such effects and so requests, the Board shall, as soon as possible, send to that other Member State—



- (a) a description of the material alteration and any available information on its possible effects on the environment in that Member State, and
- (b) relevant information about the procedure for deciding whether or not to confirm the approved road development as affected by the Minister's directions and whether or not to approve, with or without modifications, the change to the approved road development,

and shall give to that Member State a reasonable time to indicate whether it wishes to provide views on those effects.

(7AF) Where a Member State which has received information under subsection (7AE) indicates that it wishes to provide views on the likely effects on the environment of the material alteration, the Board shall send to that Member State—

- (a) if it has not already done so, a copy of the environmental impact statement submitted to the Board under this section, and
- (b) any further relevant information about the procedure for deciding whether or not to confirm the approved road development as affected by the Minister's directions and whether or not to approve, with or without modifications, the change to the approved road development.

(7AG) Where a Member State has, under subsection (7AF), indicated that it wishes to provide views on the likely effects on the environment of the material alteration, the Board shall consult with that Member State regarding the potential effects of the material alteration on the environment in that Member State and the measures envisaged to reduce or eliminate such effects.

(7AH) In carrying out an environmental impact assessment under this section, the Board shall take into account the following matters:

- (a) the environmental impact statement which was submitted to the Board;
- (b) any further information submitted to the Board under this section; and
- (c) the views, if any, provided by any other Member State under this section.

(7AI) In carrying out an environmental impact assessment under this section the Board may take into account any reports prepared by its officers, servants or agents or by any consultants or advisors engaged by the Board, whether or not for valuable consideration, for

the purpose of assisting it in the exercise of its functions under this section.

(7AJ) Without prejudice to subsection (7X), where under any provision of this section the Board requires a road authority to do any thing, the requirement shall be specified in written notice to the road authority in such form as the Board may determine.”,

(c) in subsection (8)—

(i) in paragraph (a), by substituting “Where the Board has carried out an environmental impact assessment under this section” for “Where an environmental impact statement has been submitted under subsection (7)(a) of this section”,

(ii) by inserting the following paragraph after paragraph (a):

“(aa) The Board shall not confirm or approve any matter under paragraph (a) other than where the requirements of this section, including any requirement placed on a road authority by the Board under this section, have been complied with.”,

(iii) by inserting the following after paragraph (b):

“(bb) Where an environmental impact assessment has been carried out by the Board under this section, the Board shall, in deciding whether or not to confirm the approved road development as affected by the Minister’s directions and whether or not to approve, with or without modifications, the change to the approved road development, take into account the following matters:

- (i) the environmental impact assessment and its results and findings;
- (ii) the environmental impact statement which was submitted to the Board;
- (iii) any further information submitted to the Board under this section;
- (iv) any submissions or observations made in accordance with this section in relation to the environmental effects of the material alteration; and
- (v) the views, if any, provided by any other Member State under this section.

(bbb) Where an environmental impact assessment has been carried out by the Board under this section, the Board may, in deciding whether or not to confirm the approved road development as affected by the Minister's directions and whether or not to approve, with or without modifications, the change to the approved road development, take into account any reports prepared by its officers, servants or agents or by any consultants or advisors engaged by the Board, whether or not for valuable consideration, for the purpose of assisting it in the exercise of its functions under this section.

(bbbb) Where, following the carrying out of an environmental impact assessment under this section, the Board exercises its discretion to confirm the approved road development as affected by the Minister's directions or to approve, with or without modifications, the change to the approved road development, the Board may, without prejudice to any other power of the Board, attach to such confirmation or approval any conditions, requirements or similar matters which the Board considers necessary to avoid, reduce and, if possible, offset the major adverse effects of the material alteration.”,

(iv) in paragraph (c), by deleting subparagraphs (i) and (ii),

(v) in paragraph (d), by substituting “subsection (7N)” for “subsection (7)(b) of this section”.

(d) by deleting subsection (9),

(e) by substituting the following subsection for subsection (10):

“(10) The Board shall notify a Member State which was consulted under subsection (7AE) of its decision as to whether or not to confirm the approved road development as affected by the Minister's directions and whether or not to approve, with or without modifications, the change to the approved road development.

(10A) The Board shall, as soon as may be following the making of a decision as to whether or not to confirm the approved road development as affected by the Minister's directions and whether or not to approve, with or without modifications, the change to the approved road development—

- (a) publish notice of the decision in at least one newspaper circulating in the district in which the land affected, or likely to be affected, by the material alteration is located, and
- (b) arrange to make the relevant environmental impact statement submitted under this section and information on the decision available for inspection by members of the public during a period specified by the Board.

(10B) Information made available under subsection (10A)(b) shall include the following:

- (a) the content of the relevant confirmation or approval, if the relevant matters were confirmed or approved, including any conditions, requirements or similar matters attached to the confirmation or approval;
- (b) the Board's evaluation of the direct and indirect effects of the material alteration on the factors specified in paragraphs (a) to (c) of the definition of "environmental impact assessment" in subsection (12) and on the interaction between those factors;
- (c) having examined the concerns and opinions expressed by the public concerned, the main reasons and considerations on which the decision (including any conditions, requirements or similar matters attached to the confirmation or approval) is based, including information about the public participation process;
- (d) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects;
- (e) the reports referred to in subsections (7AI) and (8)(bbb); and
- (f) information for the public on the procedures available to review the substantive and procedural legality of the decision.",

and

- (f) in subsection (12), by inserting the following definitions after the definition of "Board":

“ ‘Directive’ means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011<sup>1</sup> on the assessment of the effects of certain public and private projects on the environment;

<sup>1</sup>OJ No. L26 28.1.2012, p. 1.

‘environmental impact assessment’ means an assessment, being an assessment which includes an examination, analysis and evaluation by the Board that identifies, describes and assesses in an appropriate manner, in light of each individual case and in accordance with Articles 4 to 11 of the Directive, the direct and indirect effects which a material alteration to an approved road development would have on the following:

- (a) human beings, fauna and flora;
- (b) soil, water, air, climate and landscape;
- (c) material assets and the cultural heritage; and
- (d) the interaction between the factors referred to in paragraphs (a) to (c);

‘environmental impact statement’ means a written statement of the direct and indirect effects, if any, which a material alteration of an approved road development would have on the environment and which contains the information which an environmental impact statement is required to contain under this section;

‘road authority’ means—

- (a) a road authority within the meaning of section 2 of the Roads Act 1993 (No. 14 of 1993), or
- (b) the National Roads Authority;”.



GIVEN under my Official Seal,  
20 March 2013.

JIMMY DEENIHAN,  
Minister for Arts, Heritage and the Gaeltacht.

## EXPLANATORY NOTE

*(This note does not form part of the Instrument and does not purport to be a legal interpretation.)*

The Regulations amend section 14B of the National Monuments Act 1930 (No. 2 of 1930) as inserted by section 5 of the National Monuments (Amendment) Act 2004 (No. 22 of 2004). Section 14B relates to situations where the Minister for Arts, Heritage and the Gaeltacht has issued directions to a road authority in respect of a national monument discovered during the carrying out of an approved road development. It provides for the carrying out, in appropriate circumstances, of environmental impact assessment of proposed material alterations of approved road schemes consequent on the issuing of such Ministerial directions. The amendments to section 14B made by these Regulations are necessary so as to ensure that full effect is given in Irish law to Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment.

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