



STATUTORY INSTRUMENTS.

S.I. No. 100 of 2023



PLANNING AND DEVELOPMENT (MARITIME DEVELOPMENT)
REGULATIONS 2023

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I, DARRAGH O'BRIEN, Minister for Housing, Local Government and Heritage, in exercise of the powers conferred on me by sections 262 and 306 of the Planning and Development Acts 2000 to 2022 (No. 30 of 2000), make the following regulations –

1. Citation and Commencement

(1) These Regulations may be cited as the Planning and Development (Maritime Development) Regulations 2023.

(2) These regulations shall come into operation on 10th March 2023.

2. Interpretation

In these Regulations, unless otherwise stated –

“Act” means the Planning and Development Acts 2000 to 2022;

“Act of 2021” means the Maritime Area Planning Act 2021 (as amended);

“Application” means an application made to An Bord Pleanála under the Planning and Development Acts 2000 to 2022;

“Board” means An Bord Pleanála.

3. Procedure for obtaining opinion of Board under section 290(1)

A request to the Board under section 290(1) of the Act for an opinion in writing on the scope of the information and the extent of detail that should be set out in an environmental impact assessment report shall include –

- (a) the name, address, telephone number and e-mail address, if any, of the person making the request and of the person, if any, acting on behalf of the person making the request, or, in the case of development proposed by a local authority, the name, address, telephone number and e-mail address of the authority;
- (b) the location of the maritime site to which the request relates, and a location map marked so as to clearly outline the Maritime Area Consent (MAC) boundary;
- (c) a description of—
 - (i) the nature of the proposed development,
 - (ii) the development's specific characteristics, including its location and technical capacity, and
 - (iii) the prospective applicant's opinion on the development's likely impact on the environment.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 10th March, 2023.*

(2) As soon as practicable after receiving a request under section 290(1) of the Act, the Board shall give notice of having received the request to:

- (i) the Minister;
- (ii) the Minister for the Environment, Climate and Communications;
- (iii) the Minister for Agriculture, Food and the Marine;
- (iv) the Marine Institute;
- (v) the EPA;
- (vi) any relevant planning authority; and
- (vii) any other person referred to in Schedule 1, as appropriate,

indicating that a submission or observation in relation to the scope of the information and the extent of detail to be contained in the environmental impact assessment report may be made to the Board within 4 weeks from the date of the notice.

(3) Where the Board considers that it has insufficient information to enable it to give an opinion pursuant to a request under section 290(1), it shall, before giving notice under sub-regulation (2), by notice in writing require the prospective applicant to provide within a specified period such further information as it considers necessary to enable it to give an opinion.

(4) Notice given under sub-regulation (2) shall include the information provided with the request as specified in sub-regulation (1) and, where appropriate, any further information provided under sub-regulation (3).

(5) The Board shall, not later than 8 weeks after the expiry of the period referred to in sub-regulation (2) or (3), whichever is the later, give to the person who made the request an opinion in writing on the scope of the information and the extent of detail that should be set out in an environmental impact assessment report.

(6) The Board shall, in dealing with a request under section 290(1), have regard to any information or documentation provided under sub-regulations (1) and (3) and any submission or observation received in response to a notice under sub-regulations (2).

4. Application to the Board under section 291

(1) An application to the Board under section 291 for permission for development shall include -

- (a) the information, plans, drawings and any other documents on the proposed development as indicated by the Board under section 287 as required to accompany the application, in such number of copies as the Board has indicated it requires;
- (b) a copy of the notice published in accordance with section 291(3)(a);

- (c) a list of the persons notified of the application under section 291(3)(b), (3)(c) and (3)(d);
- (d) a list of any other public notice given or other public consultations conducted by the applicant and an indication of the date or dates of such additional notice or consultations; and
- (e) where the application is being made prior to confirmation by the applicant of certain details of the application, an opinion provided by the Board under section 287B(2), and in such circumstances the application shall be invalid if it is not in accordance with the details or groups of details specified in the opinion pursuant to section 287B(4)(a).

(2) An application to the Board shall be submitted in the number of hard copies prescribed by the Board, and where the Board agrees may be made partly in electronic form.

(3) The plans, drawings and maps accompanying an application shall be in metric scale.

(4) Any map or plan which is based on an Ordnance Survey map shall indicate the relevant Ordnance Survey Ireland sheet number.

(5) For developments or works entirely offshore and outside the extent of Ordnance Survey Ireland mapping, a navigation chart projected to the Irish Transverse Mercator should be used as the background mapping.

(6) Where an Environmental Impact Assessment Report is required to be submitted with an application, it shall be submitted in electronic form.

(7) Where the Board so consents or specifies, any or all of the copies or the required information, plans and drawings shall be submitted in electronic form.

5. Making of submissions and observations in accordance with section 291 or 292

(1) Any submission or observation made to the Board subsequent to the invitation referred to at section 291(3)(ii) or section 292(1)(c) shall be accompanied by such fee, if any, as may be payable and shall state –

- (a) the name of the person making the submission or observation, the name of the person acting on his or her behalf, if any, and the address to which any correspondence relating to the submission or observation should be sent;
- (b) the subject matter of the submission or observation;
- (c) the reasons, consideration and arguments on which the submission or observation is based in full.

(2) Where the Board so consents, a submission or observation may be made in electronic form.

(3) The Board shall acknowledge the receipt of any submission or observation as soon as may be following receipt of the submission or observation, and the acknowledgement and any further correspondence from

the Board in relation to the matter shall issue in the format in which the submission or observation was received, unless otherwise agreed.

(4) Any submission or observation that does not comply with sub-regulation (1) shall not be considered by the Board.

(5) Without prejudice to sub-regulation (6), a person who makes a submission or observation in accordance with this regulation shall not be entitled to elaborate on the submission or observation or make further submissions or observations in relation to the matter, and any such elaboration, submission or observation that is received by the Board shall not be considered by it.

(6) The Board may, at any time before the making of its decision –

- (a) ask any person to make a submission or observation or elaborate on a submission or observation in relation to the matter;
- (b) make any information relating to the matter available for inspection, notify any person that the information is so available and, if it considers it appropriate, invite further submissions or observations to be made within such period as it may specify;
- (c) hold meetings with any person where it appears to the Board to be expedient for the purpose of making its decision or resolving any issue or any disagreement in relation to the matter, including resolving any issue or disagreement in advance of an oral hearing.

(7) Where a prescribed person to whom notice is sent pursuant to section 291 or section 292 does not make a submission or observation within the specified period, the Board may make its decision without further notice to that person.

6. Costs under section 294

The sum stated as payable by the applicant under section 294(3)(g) shall be a sum such as the Board in its absolute discretion considers to be reasonable for the purpose of contributing to the cost incurred.

7. Procedure for oral hearings under section 305 of the Act

(1) Where the Board decides to hold an oral hearing under section 305, it may assign a person to conduct an oral hearing on its behalf and –

- (a) shall inform relevant persons and any other person or body which it considers appropriate and give such persons and bodies not less than five working days' notice of the time and place of the opening of the oral hearing or such shorter notice as may be accepted by all such persons or bodies;
- (b) shall make available for inspection at its offices or online a copy of any correspondence, documents or information received from any relevant persons in accordance with the provisions of the Act for a period commencing not later than seven days before

the commencement of the oral hearing and ending on the last day of the oral hearing, and

- (c) shall make available for inspection at the place the oral hearing is held a copy of any correspondence and other information referred to in paragraph (b) for the duration of the oral hearing.

(2) The provisions of paragraphs (b) and (c) of sub-regulation (1) shall not require the Board to make available models or such other information, plans, maps or drawings as may be determined by the Board where the making available of that material would lead to undue administrative or technical difficulties.

(3) The Board may, where it considers it appropriate, give any person or body informed of the holding of an oral hearing under sub-regulation (1) a copy of any correspondence, document or information received from relevant persons in accordance with the provisions of the Act or of these regulations.

(4) The Board may, at any time before the opening of an oral hearing, alter the time and place of the opening of the hearing and, in the event of such alteration, the Board shall give relevant persons and any other person or body informed of the holding of an oral hearing under sub-regulation (1) notice of not less than three working days of the new time and place or such shorter notice as may be accepted by all such persons or bodies.

(5) The Board or other person conducting an oral hearing may adjourn or re-open any hearing or, notwithstanding that any relevant person has failed to attend a hearing, proceed with the hearing.

(6) Notice of the time and place of the re-opening or resumption of an oral hearing under the provisions of sub-regulation (5) shall be given by the Board to each relevant person and to any other person or body who was informed of the holding of an oral hearing under paragraph (1)(a) or who has been heard at the hearing, not less than one week before the said time unless all such persons accept shorter notice.

(7) If, for any reason, the person appointed to conduct an oral hearing is unable or fails to conduct the oral hearing, the Board may appoint another person to conduct the oral hearing.

(8) If, for any reason, the person appointed to conduct an oral hearing is unable to complete the conduct of the oral hearing or is unable to or fails to furnish a report on an oral hearing to the Board, the Board may appoint another person to conduct a new oral hearing.

8. Prescribed Persons

The persons prescribed for the purposes of Chapter III of Part XXI are set out at Schedule 1.

Schedule 1: Prescribed Persons for the purposes of Chapter III of Part XXI

- 1 The Minister;
- 2 the Minister for the Environment, Climate and Communications;
- 3 the Minister for Transport;
- 4 the Minister for Defence;
- 5 the Minister for Agriculture, Food and the Marine;
- 6 the Environmental Protection Agency;
- 7 the Maritime Area Regulatory Authority;
- 8 the Minister for Rural and Community Development;
- 9 Marine Institute;
- 10 Inland Fisheries Ireland;
- 11 Health and Safety Authority;
- 12 Commission for Regulation of Utilities;
- 13 Failte Ireland, where the development might obstruct or detract from any tourist amenity;
- 14 An Taisce;
- 15 a local authority, where the area of the local authority might be affected by the development;
- 16 a relevant regional assembly;

17 National Transport Authority;

18 Irish Aviation Authority, where the development might endanger or interfere with the safety of, or the safe and efficient operation of, aircraft;

19 Sustainable Energy Authority of Ireland;

20 Eirgrid;

21 Commissioner of Irish Lights;

22 Irish Coastguard;

23 if any transboundary considerations apply, the Northern Ireland Department for Regional Development, the Loughs Agency and the Minister for Foreign Affairs.



GIVEN under my Official Seal,
7 March, 2023.

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

EXPLANATORY NOTE

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

The Planning and Development (Maritime Development) Regulations 2023, which come into operation on 10 March 2023, prescribe matters of detail relating to applications made to An Bord Pleanála (the Board) under the Planning and Development Acts 2000 to 2022 (the Act) for development in the maritime area, including the following matters:

- The procedure for obtaining opinion of the Board under section 290(1) of the Act;
- Application to the Board under section 291 of the Act;
- Making of submissions and observations in accordance with sections 291 and 292 of the Act;
- Costs under section 294 of the Act;
- The procedure for oral hearings under section 305 of the Act; and
- Prescribed Persons for the purposes of Chapter III of Part XXI of the Act.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN,
CILL MHAIGHNEANN,
BAILE ÁTHA CLIATH 8,
D08 XAO6

Tel: 046 942 3100
r-phost: publications@opw.ie

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