



STATUTORY INSTRUMENTS.

**S.I. No. 419 of 2024**



WATER ENVIRONMENT (ABSTRACTIONS AND ASSOCIATED  
IMPOUNDMENTS) REGULATIONS 2024

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WATER ENVIRONMENT (ABSTRACTIONS AND ASSOCIATED  
IMPOUNDMENTS) REGULATIONS 2024

I, DARRAGH O'BRIEN, Minister for Housing, Local Government and Heritage, in exercise of the powers conferred on me by sections 4, 8, 9 and 57 of the Water Environment (Abstractions and Associated Impoundments) Act 2022 (No. 48 of 2022), and to give further effect to Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000<sup>1</sup> and Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2012<sup>2</sup>, as amended, hereby make the following regulations:

**PART 1**

**PRELIMINARY AND GENERAL**

**Citation and commencement**

1. (1) These Regulations may be cited as the Water Environment (Abstractions and Associated Impoundments) Regulations 2024.

(2) These Regulations shall come into operation on 29<sup>th</sup> August 2024.

**Definitions**

2. (1) In these Regulations—

“Act of 2000” means the Planning and Development Act 2000 (No. 30 of 2000);

“Agency” means the Environmental Protection Agency;

“appropriate assessment” shall be construed in accordance with section 177V of the Act of 2000;

“Birds Directive” means Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009<sup>3</sup> on the conservation of wild birds, as amended;

“EIA” means an environmental impact assessment;

“EIA Directive” means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011<sup>2</sup> on the assessment of the effects of certain public and private projects on the environment, as amended;

“EIA portal” has the same meaning as it has in the Act of 2000;

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<sup>1</sup> OJ No. L 327, 22.12.2000, p. 1.

<sup>2</sup> OJ No. L 26, 28.01.2012, p. 1.

<sup>3</sup> OJ No. L 170, 25.06.2019, p.115.

“EIA report” means an environmental impact assessment report of the effects on the environment, if any, which can reasonably be expected to occur because of the proposed abstraction and prepared in accordance with section 23(2), and regulations made under section 57, of the Principal Act;

“environmental impact assessment” means an assessment—

- (a) consisting of—
  - (i) the preparation of an EIA report by the applicant,
  - (ii) the carrying out of consultations in accordance with the Principal Act, these Regulations and any regulations made under section 57 of the Principal Act,
  - (iii) the examination by the Agency of—
    - (I) the information presented in the EIA report,
    - (II) any supplementary information provided, where necessary, by the applicant in accordance with section 23(6) or section 26(1) of the Principal Act, and
    - (III) any relevant information received through the consultations carried out pursuant to subparagraph (ii),
  - (iv) the reasoned conclusion of the Agency on the significant effects of the proposed abstraction on the environment, taking into account the results of the examination carried out pursuant to subparagraph (iii) and, where appropriate, its own supplementary examination, and
  - (v) the integration of the reasoned conclusion of the Agency into the Agency’s decision on the licence application, and
- (b) which includes an examination, analysis and evaluation, carried out by the Agency in accordance with the Principal Act, these Regulations and any regulations made under section 57 of the Principal Act, that identifies, describes and assesses, in an appropriate manner, having regard to the circumstances of the individual case concerned, the direct and indirect significant effects of the proposed abstraction, including significant effects derived from the vulnerability of the abstraction to risks of major accidents and disasters relevant to it on—
  - (i) population and human health,
  - (ii) biodiversity, with particular attention to species and habitats protected under the Habitats Directive and the Birds Directive,
  - (iii) land, soil, water, air and climate,
  - (iv) material assets, cultural heritage and the landscape, and
  - (v) the interaction between the factors mentioned in subparagraphs (i) to (iv);



“estimate” means an estimate of a daily rate of abstraction made under Regulation 4(1);

“Habitats Directive” means Council Directive 92/43/EEC of 21 May 1992<sup>4</sup> on the conservation of natural habitats and of wild fauna and flora, as amended;

“local authority” means a local authority within the meaning of section 2 of the Local Government Act 2001 (No. 37 of 2001);

“measurement” means a measurement of a daily rate of abstraction taken under Regulation 4(1);

“Minister” means the Minister for Housing, Local Government and Heritage;

“Ministerial order” means an order made by the Minister under section 16(1) of the Principal Act;

“planning permission” means a permission granted under section 34, 37G, 37N or 293 of the Act of 2000;

“Principal Act” means the Water Environment (Abstractions and Associated Impoundments) Act 2022 (No. 48 of 2022);

“register of abstractions” means the register established and maintained by the Agency in accordance with Part 4 of the Principal Act;

“Regulations of 2010” means the Communities Environmental Objectives (Groundwater) Regulations 2010 (S.I. No. 9 of 2010);

“retrospective EIA” means a retrospective environmental impact assessment—

- (a) consisting of—
  - (i) the identification of the existence of exceptional circumstances within the meaning of section 30(3) of the Principal Act,
  - (ii) the preparation of a retrospective EIA report by the applicant,
  - (iii) the carrying out of consultations in accordance with the Principal Act, these Regulations and any regulations made under section 57 of the Principal Act,
  - (iv) the examination by the Agency of—
    - (I) the information presented in the retrospective EIA report,
    - (II) any supplementary information provided, where necessary, by the applicant in accordance with sections 23(6), 26(1), 30(2) and 43(1), as the case may be, of the Principal Act, and
    - (III) any relevant information received through the consultations carried out pursuant to subparagraph (iii),

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<sup>4</sup> OJ No. L 206, 22.07.1992, p.7.

- (v) the reasoned conclusion of the Agency on the significant effects of the abstraction on the environment, taking into account the results of the examination carried out pursuant to subparagraph (iv) and, where appropriate, its own supplementary examination, and
  - (vi) the integration of the reasoned conclusion of the Agency into the Agency's decision on the licence application, and
- (b) which includes an examination, analysis and evaluation, carried out by the Agency in accordance with the Principal Act, these Regulations and any regulations made under section 57 of the Principal Act, that identifies, describes and assesses, in an appropriate manner, in the light of each individual case, the direct and indirect significant effects of the abstraction, including significant effects derived from the vulnerability of the abstraction to risks of major accidents and disasters relevant to it on—
- (i) population and human health,
  - (ii) biodiversity, with particular attention to species and habitats protected under the Habitats Directive and the Birds Directive,
  - (iii) land, soil, water, air and climate,
  - (iv) material assets, cultural heritage and the landscape, and
  - (v) the interaction between the factors mentioned in subparagraphs (i) to (iv);

“retrospective EIA report” means a retrospective environmental impact assessment report of the effects on the environment, if any, which have occurred, which are occurring or which can reasonably be expected to occur because of the abstraction and prepared in accordance with these Regulations and section 31(2), and regulations made under section 57, of the Principal Act;

“retrospective screening determination” has the meaning given to it by section 32(1) of the Principal Act;

“screening determination” has the meaning given to it by section 24(1) of the Principal Act;

“Water Framework Directive” means Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000<sup>1</sup> establishing a framework for Community action in the field of water policy;

“website” means an internet website (including part of such a website)—

- (a) to which access is readily available by members of the public, and
- (b) where anything published is readily available for inspection by members of the public.

(2) A word or expression that is used in these Regulations and that is also used in Water Framework Directive or the EIA Directive has, other than where a contrary intention appears, the same meaning in these Regulations as in those Directives.

## PART 2

### ABSTRACTIONS UNDER PRINCIPAL ACT NOT REQUIRING LICENCE OR AWAITING DETERMINATION OF LICENCE APPLICATION.

#### Scope (Part 2)

3. (1) This Part shall apply to the following abstractions:

- (a) abstractions in respect of which a licence is not required under the Principal Act;
- (b) abstractions below the registration threshold under section 2, or such registration threshold established under section 16, of the Principal Act;
- (c) abstractions that were being carried out on the date immediately preceding the date of the coming into operation of section 15 of the Principal Act in respect of which a licence is required under the Principal Act, until such time as the Agency makes a decision to grant the licence.

(2) The collection of rainwater shall not be considered an abstraction for the purposes of these Regulations and exemptions.

(3) For the purposes of Part 5, Schedules 6, 7 and 7A to the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) shall apply to an abstraction as they apply to a development, subject to the following modifications:

- (a) subject to subparagraph (b), a reference in those Schedules to a development shall be read as a reference to an abstraction;
- (b) a reference to development in paragraph 1(b) and paragraph 3(g) of that Schedule 7 shall be read as including a reference to an abstraction;
- (c) any other necessary modifications, as the context so requires.

#### Measuring or estimating daily rate and maintenance of records

4. (1) A person carrying out an abstraction, to which Parts 2 to 4 of the Principal Act apply, shall measure or, where appropriate, estimate the daily rate of the abstraction, and maintain records of the results of all measurements or estimations in accordance with Regulation 5.

(2) The following shall apply to each abstraction being carried out under paragraph (1) by a person, where those abstractions do not combine to form a single abstraction for the purposes of these Regulations:

- (a) the Agency shall specify, by guidance published on a website maintained by it, mechanisms, procedures and methods which may be used to accurately measure the daily rate of an abstraction;

- (b) where a person carries out an abstraction below the registration threshold, that person shall, where required by the Agency, demonstrate that the abstraction does not exceed the registration threshold either by –
  - (i) estimating the daily rate of their abstraction using the Agency's estimator, or
  - (ii) measurement of the daily rate using a mechanism for such measurement.

(3) Paragraph (2)(b) is a penal provision to which section 104(1) of the Principal Act applies.

### **Maintenance of measurements and estimates**

5. (1) A person mentioned in Regulation 4(1) shall maintain a record of such measurements taken or estimates made at one, or more, the following locations:

- (a) on the premises at which the abstraction takes place;
- (b) at the place of residence, other than the dwelling, of the person carrying out the abstraction;
- (c) at the offices of the organisation responsible for the carrying out of the abstraction;
- (d) at the address listed in respect of the abstraction, on the Agency's register of abstractions;
- (e) at the address listed in respect of the abstractor's agent.

(2) Records of measurements taken, or estimates made, of the daily rate of the abstraction shall be maintained and made available for inspection for a minimum of the preceding three calendar years from the date of inspection, or, where an inspection takes place before the abstraction has been in operation for three calendar years, since the commencement of the abstraction.

(3) The Agency may specify, by guidance published on a website maintained by it, the form in which records of measurements taken or estimates made shall be maintained.

(4) All records of measurements taken, or estimates made, shall be made available for inspection at all reasonable times to—

- (a) the Agency,
- (b) the local authority, in whose functional area the measurement was taken or estimate was made,
- (c) a public authority mentioned in the Schedule, or
- (d) a duly-appointed authorised person of a local authority under section 91, or of the Agency under section 93, of the Principal Act.

(5) A local authority may request a person carrying out an abstraction, by notice in writing to the person concerned, to submit such results of a measurement taken or estimate made as the authority considers necessary for the

carrying out of its functions under the Principal Act, and where so requested the person concerned shall submit the information requested to the Agency in accordance with the notice.

(6) The notice mentioned in paragraph (5) shall state the information required to be submitted, the format in which it is to be submitted, where it may be submitted, and the period within which it is to be submitted.

(7) Paragraphs (1), (4) and (5) are penal provisions to which section 104(1) of the Principal Act applies.

### **Registration threshold**

6. (1) Where the registration threshold is varied by Ministerial order, the Agency shall notify, in writing, persons carrying out an abstraction on the register of abstractions of the change.

(2) The Agency may provide a notice under paragraph (1) by electronic means including by way of publication on a website maintained by the Agency.

(3) Where a local authority becomes aware of a person carrying out an abstraction—

- (a) above the registration threshold, or
- (b) that exceeds a threshold as varied by Ministerial order,

the local authority shall notify the person carrying out the abstraction in writing of the person's responsibility to give notice of their abstraction under section 11 of the Principal Act.

(4) A notice under paragraph (3) shall—

- (a) contain information on how to give notice of the abstraction to the Agency, and
- (b) state that a registered abstraction shall be subject to a determination by the Agency of the significance of the abstraction under section 18 of the Principal Act.

### **Limits on rate of water that may be abstracted from body of surface water having regard to surface water status**

7. (1) A person carrying out an abstraction shall comply with the requirements of the Principal Act where they abstract from a body of surface water above the registration and licensing thresholds set out in that Act.

(2) Where the licensing thresholds are varied by Ministerial order, the Agency shall inform persons on the register of abstractions carrying out an abstraction of the change.

(3) The Agency or a local authority concerned, as the case may be, may issue a compliance notice under section 97 or 98 of the Principal Act where it has reason to believe that an abstraction is—

- (a) having, or is likely to have, an impact on the surface water status of a body of surface water, that may cause a deterioration in its surface water status, or
- (b) cause the surface water to fail to meet its environmental objectives.

### **Hydrological limits**

8. The Agency shall establish ecology-based hydrological limits to sustain the surface water status of bodies of surface water.

### **Migration of fish and other aquatic species, including the maintenance of natural flow patterns and sediment transport within body of surface water**

9. An abstraction shall not be carried out—
- (a) where the rate of the abstraction is likely to reduce flow levels, in such a manner that is likely to cause a barrier to the passage of fish, or
  - (b) in such a manner as to interfere with the transport of sediment within a body of surface water,

such as to cause a deterioration in the status of the water body concerned or compromise compliance with any standards and objectives established for a protected area, where applicable.

### **Controls relating to the abstraction of groundwater to protect quantitative status of body of groundwater including, in particular, terrestrial ecosystems associated with and dependent on that body of groundwater**

10. (1) With regard to controls relating to the abstraction of groundwater to protect the quantitative status of groundwater, including in particular terrestrial ecosystems associated with and dependent on that body of groundwater, the Agency shall specify, by guidance published on a website maintained by it, general binding rules for abstractions specified in Regulation 3(1)(a) and (b) to ensure they do not impact on the environmental objectives of the Water Framework Directive.

(2) The Agency shall periodically review the controls required to protect the quantitative status of a body of groundwater.

### **Construction, extension and operation of any well, borehole or other works through which water may be abstracted**

11. (1) Where a person carrying out an abstraction constructs, operates, or extends any well, borehole or other works through which water may be abstracted, he or she shall comply with the requirements of—

- (a) the Regulations of 2010, and
- (b) advice published by the Agency.

(2) In order to fulfil the requirements of these Regulations, a person carrying out an abstraction shall adhere to advice published by the Agency on any construction or operation of a well or borehole.

**Introduction of drilling fluids into well or borehole in order to test hydraulic properties of an aquifer**

12. The introduction of drilling fluids into a well or borehole, including for the testing of the hydraulic properties of an aquifer shall not contravene the requirements of—

- (a) the Regulations of 2010, and
- (b) advice published by the Agency.

**Wells or boreholes no longer required for abstraction**

13. Where a well or borehole is no longer required for an abstraction, the person carrying out the abstraction shall ensure that it is back filled or sealed to the extent necessary to—

- (a) prevent loss of groundwater from an aquifer, and
- (b) avoid the entry of pollutants or water of a different chemical composition into the water environment,

in accordance with—

- (i) the Regulations of 2010, and
- (ii) advice published by the Agency.

**Maintenance of pipework, storage tanks and other equipment associated with abstraction**

14. A person carrying out an abstraction shall ensure that any pipework, storage tanks or other equipment associated with an abstraction shall be maintained in a state of good repair, such that water leakage is kept to a minimum.

**PART 3**

**EXEMPTIONS BY MINISTER FOR CERTAIN ABSTRACTIONS  
UNDER SECTION 9 OF PRINCIPAL ACT**

**Exemption by Minister**

15. (1) The Minister may declare certain abstractions or activities relating to abstraction to be exempt from—

- (a) regulations made under section 8, or

(b) the requirements of section 11, of the Principal Act, where he or she is satisfied that declaring the abstraction or activity has or will have—

- (i) no significant impact on surface water status or groundwater status, or
- (ii) no negative impact on the safety or operation of a hydro-electric scheme.

(2) Before declaring an abstraction or activity to be exempt under this Regulation, the Minister shall—

- (a) consult with, and consider any recommendations of, the Agency, and
- (b) have regard to the following:
  - (i) the environmental objectives for the water body concerned;
  - (ii) the obligation to protect species and habitats under the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011);
  - (iii) the requirements of the EIA Directive.

(3) Nothing in an exemption prescribed under this Regulation shall be construed as exempting a person carrying out an abstraction from requirements relating to other consents required for the commencement or operation of the abstraction, including but not limited to consents necessary for the purposes of—

- (a) an EIA,
- (b) an appropriate assessment,
- (c) a planning permission, or
- (d) any other consent required in relation to the abstraction or works carried out for the purpose of carrying out the abstraction.

## **PART 4**

### **ABSTRACTIONS EXEMPTED BY MINISTER UNDER PART 3**

#### **Abstraction from borehole or well to provide drinking water to domestic dwelling**

16. (1) An abstraction from a borehole or well for the purpose of providing water to a single domestic dwelling shall be exempt from the requirements of these Regulations.

(2) For the purposes of these Regulations, water supplied to domestic dwellings does not include water for the use of agricultural or commercial purposes.



### **Temporary abstraction to facilitate carrying out of works**

17. (1) Where works require the carrying out of an abstraction, such an abstraction shall be exempt from the requirement to register with the Agency, where one, or more, of the following applies:

- (a) the abstraction shall be in operation for a period of not more than a continuous, or in the aggregate, period of 8 weeks;
- (b) the daily rate of the abstraction is less than 25 cubic metres (m<sup>3</sup>) when accounting for water that is returned locally to the body of surface water or body of groundwater from which the abstraction is taken;
- (c) the operation of the abstraction does not reduce flow levels in such a manner that is likely to cause a barrier to the passage of fish;
- (d) the operation of the abstraction does not interfere with the transport of sediment within a body of surface water.

(2) Works requiring the carrying out of a temporary abstraction shall take all reasonable measures to ensure that the impact of the abstraction is minimised and shall not cause, or be likely to cause, the water body concerned to fail, or be likely to fail, to meet its environmental objectives.

(3) An abstraction that is operated on any regular or irregular interval outside of the eight-week temporary limit, mentioned in paragraph (1)(a), shall be required to comply with the requirements contained in these Regulations.

### **Abstraction stored in impoundment or artificial storage pond built for the purpose of storing water which receives its inflow from abstraction entered in register**

18. Where an abstraction is stored in an impoundment or artificial storage pond built for the purpose of storing water which receives its inflow from an abstraction entered in the register of abstractions—

- (a) the stored water shall not be considered to be a further or ongoing abstraction from the water body, and
- (b) it shall not be necessary to register the stored water from abstraction as a separate abstraction in that register.

### **Abstraction for testing or investigative reasons**

19. (1) Where an abstraction is carried out for the purposes of—

- (a) hydraulic testing of borehole or aquifer yields,
- (b) sampling, or
- (c) geological investigations,

the abstraction shall not require registration, under these Regulations, where one, or more, of the circumstances specified in paragraph (2) apply.

- (2) The circumstances mentioned in paragraph (1) are the following:
- (a) the abstraction is operational for a period of not more than 8 continuous weeks;
  - (b) the daily rate of the abstraction is—
    - (i) less than 25 cubic metres per day ( $\text{m}^3/\text{day}$ ), or
    - (ii) not more than 5% of the hydrological recharge rate of the body of groundwater when accounting for water returned locally to the body of groundwater,whichever is the lower;
  - (c) the abstraction shall not cause the body of groundwater concerned to fail to, or be likely to fail to, meet its environmental objectives;
  - (d) the abstraction shall not cause, or be likely to cause, a deterioration in the groundwater status of the body of groundwater concerned;
  - (e) the person carrying out an abstraction ensures—
    - (i) that any pipework, storage tanks or other equipment associated with an abstraction shall be maintained in a state of good repair, such that water leakage is kept to a minimum, and
    - (ii) that hazardous substances are not inputted into the body of groundwater;
  - (f) non-hazardous substances are limited so as to ensure that such inputs do not cause—
    - (i) deterioration in groundwater status, or
    - (ii) significant and sustained upward trends in the concentration of pollutants in groundwater;
  - (g) the abstraction does not impact or cause—
    - (i) a connected body of surface water,
    - (ii) a groundwater dependent terrestrial ecosystem, or
    - (iii) protected area,to fail or be likely to fail its environmental objectives;
  - (h) when a well or borehole used for testing or investigative reasons is not being used for abstraction, the person carrying out the testing or investigation shall ensure that it is back filled or sealed to the extent necessary to prevent loss of groundwater from an aquifer and to avoid the entry of pollutants or water of a different chemical composition into the water environment in accordance with the Regulations of 2010 and advice published by the Agency.

(3) It shall be the responsibility of the person carrying out the abstraction to provide evidence that the abstraction meets the above requirements when requested to do so by the Agency or a local authority concerned.

**Temporary abstraction to facilitate any works or operations authorised by or under an enactment**

20. (1) Where works or operations authorised under an enactment require the carrying out of an abstraction, such an abstraction shall be exempt from the requirement to register with the Agency, where one, or more, of the following applies:

- (a) the abstraction shall be in operation for a period of not more than 8 continuous weeks;
- (b) the daily rate of the abstraction is less than 25 cubic metres (m<sup>3</sup>) when accounting for water that is returned locally to the body of surface water or body of groundwater from which the abstraction is taken;
- (c) the operation of the abstraction shall not reduce flow levels in such a manner that is likely to cause a barrier to the passage of fish;
- (d) the operation of the abstraction shall not interfere with the transport of sediment within a body of surface water.

(2) A person carrying out works requiring the carrying out of a temporary abstraction—

- (a) shall take all reasonable measures to ensure that the impact of the abstraction is minimised, and
- (b) shall not cause, or be likely to cause, the water body concerned to fail or be likely to fail to meet its environmental objectives.

(3) An abstraction that is operated on any regular or irregular interval outside of the eight-week limit mentioned in paragraph (1)(a), shall be required to comply with the requirements of these Regulations.

(4) Abstractions required to facilitate works necessary for the maintenance of navigation, including associated dredging and pumping shall be allowed to utilise the exemption mentioned in paragraph (1).

**Abstraction that is required for fire-fighting**

21. (1) The abstraction of water for the purposes of temporary firefighting measures of less than 8 weeks in duration shall not be required to give notice to the Agency under section 11 of the Principal Act.

(2) Abstractions for firefighting shall take all reasonable measures to—

- (a) ensure that the abstraction is taken from a body of surface water, or body of groundwater, where it will pose the least risk to the water environment, and

- (b) mitigate the impact of the abstraction on the surface water status or groundwater status of the body of surface water or body of groundwater concerned.

### **Works relating to associated impoundment of exempted abstraction**

22. (1) Where works on an impoundment associated with an abstraction that has received an exemption under Part 3, require the carrying out of an abstraction to facilitate such works, such an abstraction shall be exempt from the requirement to register with the Agency where the following apply:

- (a) the abstraction shall be in operation for a period of not more than 8 weeks;
- (b) the daily rate of the abstraction is less than 25 cubic metres (m<sup>3</sup>) when accounting for water that is returned locally to the body of surface water or body of groundwater from which the abstraction is taken;
- (c) the operation of the abstraction shall not reduce flow levels in such a manner that is likely to cause a barrier to the passage of fish;
- (d) the operation of the abstraction shall not interfere with the transport of sediment within a body of surface water.

(2) Works requiring the carrying out of a temporary abstraction shall take all reasonable measures to ensure that the impact of the abstraction is minimised and shall not cause, or be likely to cause, the water body concerned to fail, or be likely to fail, to meet its environmental objectives.

(3) An abstraction that is operated on any regular or irregular interval outside of the eight-week temporary limit, mentioned in paragraph (1)(a), shall be required to comply with the requirements contained in these Regulations.

### **Offences**

23. (1) A person carrying out an abstraction shall—

- (a) carry out the abstraction in accordance with the requirements of the exemptions under Part 3,
- (b) carry out the abstraction in accordance with this Part, or
- (c) give notice of the abstraction in accordance with Part 4 of the Principal Act.

(2) Paragraph (1) is a penal provision to which section 104(1) of the Principal Act applies.

## PART 5

### APPLICATIONS

#### Notice of intention to apply for licence or review of licence to the Agency

24. An applicant shall—
- (a) within the period of 2 weeks before the date of the making of an application for a licence or the review of a licence by the Agency, publish notice of the intention to make the application in a newspaper circulating in the district in which the activity is, or shall be, situate, in accordance with Regulation 25,
  - (b) not later than the date of the making of the application for the licence, or the review of a licence by the Agency, as the case may be, give notice of the application by the erection or by the fixing of a site notice on the land or structure concerned, in accordance with Regulation 25, and
  - (c) state that the information at Regulation 25(3) shall be submitted to the EIA portal, or where an application relates to an abstraction of a class referred to in section 21(3)(b) of the Principal Act, shall submit such information pending a screening determination carried out by the Agency.

#### Identification of significant abstractions

25. (1) Where a person intends to carry out an abstraction that meets or exceeds the registration threshold they shall notify the Agency in writing in accordance with this Regulation.

(2) A notification under this Regulation shall be made to the Agency by one, or more, of the following methods:

- (a) in writing to the headquarters of the Agency;
  - (b) by email to an email address published, for the purpose of such notifications, on a website maintained by the Agency;
  - (c) in such other electronic manner as the Agency may specify on a website maintained by the Agency.
- (3) A notification under this Regulation shall include the following:
- (a) the name and address of the person proposing to carry out the abstraction;
  - (b) the proposed location or postal address (including, where appropriate, the name of the townland or townlands) and description of the abstraction and ancillary works required for the facilitation of the abstraction, and the National Grid reference of the location of any associated works or premises;

- (c) particulars of the source, rate, method of abstraction, and the period or periods during which the abstraction is, or shall be, carried out;
- (d) particulars of water returned locally to the water body concerned including, volume, temperature and any treatment;
- (e) details of the water body from which the abstraction is taking, or is to take, place, including its protected area status, if any, and details of any sensitive areas or protected areas, or both, in the vicinity of the abstraction point or points or likely to be affected by the abstraction concerned;
- (f) in relation to abstractions from a body of groundwater, details of groundwater protection schemes in place for the receiving body of groundwater and all associated hydrogeological and geological assessments related to the water environment in the vicinity of the abstraction;
- (g) details of monitoring and sampling points and outline proposals for monitoring abstractions and the environmental consequences of any such abstractions;
- (h) such other matters as the Agency may specify as necessary for the assessment of the abstraction concerned.

(4) Where the Agency issues a notice under section 18(10)(a) of the Principal Act stating that an abstraction is no longer a significant abstraction and a licence is no longer required, it shall request the licensee to apply for the surrender of a licence under section 49(5) of that Act.

(5) The Agency shall publish its determination of the significance of an abstraction on a website maintained by Agency.

### **Notices in newspapers**

26. A notice published in a newspaper pursuant to Regulation 25(1) shall contain as a heading the words “APPLICATION TO THE ENVIRONMENTAL PROTECTION AGENCY FOR A LICENCE”, or “APPLICATION TO THE ENVIRONMENTAL PROTECTION AGENCY FOR THE REVIEW OF CONDITIONS ATTACHED TO A LICENCE”, as the case may be, and shall—

- (a) give the name and address of the applicant,
- (b) state the location or postal address (including, where appropriate, the name of the townland or townlands) to which the application relates,
- (c) specify the daily rate of the proposed abstraction,
- (d) where the application is required to be accompanied by an EIA report in accordance with Regulation 31—
  - (i) state that such a statement shall be submitted to the Agency with the application, and
  - (ii) state that—

- (I) the EIA report is submitted to the Agency in accordance with section 23, 31 or 40 of the Principal Act,
  - (II) any information provided to the Agency under section 26, 34, or 43 of the Principal Act,
  - (III) any opinion issued by the Agency under section 23(3) of the Principal Act on the scope of the EIA report, and
  - (IV) any further information, including reports and advice, relating to the EIA as may be furnished to the Agency in the course of the Agency's consideration of the application, shall be made available on a website maintained by the Agency and at the headquarters of the Agency relating to the effects on the environment of the emissions from the activity which may be furnished to the Agency in the course of the Agency's consideration of the application, shall be available at the headquarters of the Agency, and
- (iii) where planning permission is required, indicate—
- (I) the name of the planning authority to which a copy of the EIA report has been submitted, and
  - (II) that submissions may be made to the Agency in writing in relation to the likely effects on the environment of the proposed activity within the period specified by the Agency on a website maintained by it, and
- (e) state that a copy of the application for the licence may be inspected on a website maintained by the Agency or inspected at, or obtained from, the headquarters of the Agency as soon as is practicable after the receipt by the Agency of the application for the licence.

### **Site notices**

27. (1) A site notice erected or fixed pursuant to Regulation 24(1) on any land or structure shall contain as a heading the words "APPLICATION TO THE ENVIRONMENTAL PROTECTION AGENCY FOR A LICENCE", or "APPLICATION TO THE ENVIRONMENTAL PROTECTION AGENCY FOR THE REVIEW OF THE CONDITIONS ATTACHED TO A LICENCE", as the case may be, and shall—

- (a) give the name and address of the applicant,
- (b) state the location or postal address (including, where appropriate, the name of the townland or townlands) to which the application relates,
- (c) specify the daily rate of the proposed abstraction,

- (d) where the application is required to be accompanied by an EIA report in accordance with Regulation 31, insert the following:
  - (i) the EIA report submitted to the Agency in accordance with section 23, 31 or 40 of the Principal Act;
  - (ii) any information provided to the Agency under section 26, 34, or 43 of the Principal Act;
  - (iii) any opinion issued by the Agency under section 23(3) of the Principal Act on the scope of the EIA report;
  - (iv) any further information, including reports and advice, relating to the EIA as may be furnished to the Agency in the course of the Agency's consideration of the application, shall be made available on a website maintained by the Agency and at the headquarters of the Agency;
  - (v) any further information relating to the effects on the environment of the emissions from the activity which may be furnished to the Agency in the course of the Agency's consideration of the application, shall be available at the headquarters of the Agency, and
- (e) where planning permission is required—
  - (i) indicate the name of the planning authority concerned to which a copy of the EIA report has been submitted,
  - (ii) state that submissions may be made to the Agency in writing in relation to the likely effects on the environment of the proposed activity within the period specified on a website maintained by the Agency, and
  - (iii) state that a copy of the application for the licence may be inspected on a website maintained by the Agency or inspected at, or obtained from, the headquarters of the Agency as soon as is practicable after the receipt by the Agency of the application for the licence.

(2) Submissions may be made in writing to the Agency in relation to the likely effects on the environment of the proposed activity, specified on a site notice under paragraph (1), within the period specified by the Agency on a website maintained by it.

(3) In accordance with section 27, 35 or 44 of the Principal Act, a proposed decision in respect of the matters referred to in a site notice under paragraph (1), shall be published by the Agency on a website maintained by the Agency.

(4) A copy of the application for the licence, specified on a site notice under paragraph (1), may be inspected on a website maintained by the Agency or inspected at, or obtained from, the headquarters of the Agency as soon as is practicable after the receipt by the Agency of the application for the licence.

(5) A site notice under paragraph (1) shall be—

- (a) painted or inscribed, or printed and affixed, on a durable material, and



- (b) be securely erected or fixed in a conspicuous position—
  - (i) on or near the main entrance to the land or structure from a public road, or
  - (ii) on any other part of the land or structure adjoining a public road,

and shall be so erected or fixed and the text shall be so painted, inscribed or printed that the notice shall be capable of being read by persons using the said public road.

(6) The name and address of the applicant or the person making the application on behalf of the applicant must be included on the site notice, under paragraph (1), and the signature of the applicant or the person making the application on behalf of the applicant must be included on the site notice.

(7) The date of the erection of the site notice shall be included on a site notice under this Regulation.

(8) A site notice in accordance with this Regulation shall be maintained in position where erected or fixed in accordance with paragraph (1), for not less than one month after the making of the application, and shall be renewed or replaced, without delay, if it is removed or becomes defaced or illegible within the period which it is required to be displayed.

### **Further notice**

28. Where—

- (a) a period of not less than two weeks has elapsed between the publication in a newspaper of a notice in accordance with Regulation 26 and the making of the relevant application for a licence, or
- (b) it appears to the Agency that any notice published or given in pursuance of Regulation 25—
  - (i) if published in a newspaper, does not comply with the requirements of Regulation 25,
  - (ii) if erected or fixed on any land or structure, does not comply with the requirements of Regulation 26, or
  - (iii) in either case, because of the content or for any other reason, is misleading or inadequate for the information of the public,

the Agency shall require the applicant to publish, erect or fix such further notice in such manner, whether in a newspaper or otherwise, in such terms as it may specify and to submit to it evidence as it may specify in relation to compliance with any such requirement.

### **Application for licence**

29. (1) An application for a licence shall be submitted to the headquarters of the Agency and shall be in such form as may be determined by the Agency, from time to time, which may include electronic submission to the website of the Agency.

(2) Without prejudice to the generality of paragraph (1), an application for a licence shall give details of the following:

- (a) the name, address and telephone number of the applicant, and if different, any address to which correspondence relating to the application shall be sent and, where the applicant is a body corporate, the address of its registered or principal office;
- (b) the location or postal address (including, where appropriate, the name of the relevant townland or townlands) of the premises to which the activity relates;
- (c) the name of the planning authority in whose functional area the activity is, or shall be, carried on;
- (d) in the case of an application for the review of conditions attached to a licence, the registration number and licence number attached to the licence;
- (e) any other information reasonably required by the Agency for the purpose of its consideration of the application concerned.

### **Procedure on receipt of application for licence**

30. (1) On receipt of an application for a licence, the Agency shall examine whether the application complies with the requirements of Regulation 29.

(2) Where the Agency considers that an application for a licence complies with the requirements of Regulation 29, it shall send to the applicant an acknowledgement stating the date of the receipt of the application.

(3) Where the Agency considers that an application for a licence does not comply with any or all of the requirements referred to in paragraph (2) which relate to the application, it may, as it considers appropriate, having regard to the extent of the failure to comply with the said requirement, by notice in writing—

- (a) inform the applicant of such failure of compliance and that the application cannot be considered by the Agency, or
- (b) require the applicant, within such period as may be specified by the Agency, to take such steps, or to furnish such further particulars, plans, drawings or maps, as may be necessary to comply with the said requirements and, where the applicant fails to comply with such a requirement under this paragraph, the Agency may, as it considers appropriate having regard to the extent of the failure, inform the applicant, by notice in writing, of such failure and that the application cannot be considered by the Agency.

(4) The Agency may, in respect of any application received under this Regulation, in accordance with section 20(6)(1) of the Principal Act, attach either, or both, of the following conditions to any licence issued to the applicant:

- (a) specifying mitigation measures for impoundments associated with an abstraction, including for heavily modified water bodies;
- (b) specifying measures consistent with the environmental objectives of the water body concerned, including measures to maintain and restore the water body, in accordance with such environmental objectives.

## **PART 6**

### **LICENCE APPLICATION AND EIA**

#### **Application for a licence for abstraction**

31. (1) Where an application is required to be accompanied by an EIA report, in accordance with section 23, 31 or 40 of the Principal Act, an applicant or licensee, as the case may be, shall provide the required information as specified for such applications on the EIA portal.

(2) Where an application, referred to in paragraph (1), is submitted with an EIA report, the applicant shall submit the EIA portal confirmation notice generated by the portal to the Agency as part of their application.

(3) Where a screening determination has been issued by the Agency, the applicant shall submit the EIA portal confirmation notice to the Agency not later than one week of the date of submission of the information, under paragraph (2), to the EIA portal.

(4) As soon as may be following the publication of an application on a website maintained by it, the Agency shall send to the EIA portal the following in electronic form in the manner set out on the portal:

- (a) a copy of the EIA portal confirmation notice;
- (b) the Agency's reference number of the application;
- (c) the address of the website where the application can be viewed by members of the public, as it appears on the website maintained by the Agency.

(5) The procedure on receipt of an application for a licence under Regulation 30 shall apply to applications under this Part.

(6) The applicant shall publish their application for an abstraction—

- (a) in a newspaper circulating in the area in which the abstraction is situate, in accordance with Regulation 26, and
- (b) in a site notice in accordance with Regulation 27.

(7) Upon receipt of a complete application for a water abstraction and having issued such acknowledgement to the applicant under Regulation 30(2), the Agency shall, as soon as practicable, publish the application on a website maintained by it.

(8) The notice published by the Agency on a website maintained by it, under paragraph (7), shall specify that—

- (a) members of the public may make submissions or observations on the application and EIA report within a period of 5 weeks commencing on the date of publication of the notice, and
- (b) such submissions or observations shall be made in writing, including via email to an email address (if any) specified in the notice.

### **Submission to EIA portal and publication of applications**

32. The requirements of these Regulations governing submission to the EIA portal and publication of applications shall apply, with any necessary modifications, to applications provided for in Parts 7, 8 and 9.

### **EIA report for abstraction**

33. (1) Where the Agency receives a request to issue an opinion on the scope and level of detail required in an EIA report under section 23(3) of the Principal Act it may request such further information, from the applicant concerned, as it considers necessary to formulate such opinion.

(2) The Agency shall issue its opinion within 28 days of the date of receipt of the request, or of the date of receipt of a request for further information, whichever is the later.

(3) In formulating an opinion under this Regulation, the Agency shall have regard to the following:

- (a) the environmental objectives of the water body concerned;
- (b) the matters specified at section 24(4) of the Principal Act;
- (c) the EIA Directive;
- (d) the matters specified at section 18(4) of the Principal Act;
- (e) the proposed period for which the abstraction is intended to operate;
- (f) the maximum daily rate of abstraction possible having regard to the existing or proposed infrastructure;
- (g) seasonal and temporal variations in the rate of abstraction;
- (h) the operation of any impoundment or associated works;
- (i) any other matters the Agency considers necessary for its formation of the opinion.

### **Screening determination**

34. (1) A notice of the Agency's screening determination shall be issued to the applicant in writing and a copy of the notice shall be published on a website maintained by it.

(2) A notice of the Agency's screening determination shall include the matters specified at section 24(5) of the Principal Act.

(3) Where a screening determination is in relation to an abstraction specified in section 21(3)(b) of the Principal Act, it shall specify the timeframe within which an EIA report is to be submitted to the Agency to continue with the application process.

(4) Where an EIA report is not submitted within the timeframe referred to in paragraph (3), the Agency shall not commence the assessment of the licence application.

### **Coordination of EIA with planning authority or Board**

35. (1) Any materials submitted to the Agency by the applicant in accordance with section 25(2) of the Principal Act shall be published by the Agency on a website maintained by it.

(2) Requests by the Agency in accordance with section 25(4)(a), 25(5)(a) or 25(8)(a) of the Principal Act, and observations from a planning authority or the Board in accordance with section 25(4)(b), 25(5)(b) or 25(8)(b) of the Principal Act, as the case may be, shall be published on a website maintained by the Agency.

(3) All observations submitted by the Agency to a planning authority or the Board in accordance with section 25(6)(b)(ii) or 25(7) of the Principal Act, shall be published on a website maintained by the Agency.

(4) When the Agency publishes an application a website maintained by it, it shall also notify such of the public authorities listed in the Schedule to the Principal Act as it considers necessary, and such notification shall—

- (a) include directions on how to access the application on the Agency's website, and
- (b) state that the public authorities shall have a period of 5 weeks, commencing on the date of the notification under this paragraph, in which to make observations on the application and the EIA report in accordance with Regulation 31.

### **Submission of information to Agency**

36. (1) Where an application is deemed to be withdrawn following failure to provide requested further information to the Agency within a period specified in a notice in accordance with section 26(1) of the Principal Act, the Agency shall notify the applicant in writing and publish a notice such withdrawal on a website maintained by it.

(2) Where an application has been deemed withdrawn, an applicant shall commence a new licence application for any future abstraction licences sought.

### **Grant or refusal of a licence application under section 21 of Principal Act**

37. (1) Where the Agency gives notice to the applicant of its proposed decision under section 27(1), or decision to grant or refuse a licence under section 27(2), of the Principal Act, it shall do so in writing.

(2) A notification, under paragraph (1), shall include the matters specified at section 27(1) and (2) of the Principal Act, as the case may be, and include the main reasons for the decision.

(3) The Agency shall notify the public of its proposed decision under section 27(1) or decision to grant or refuse a licence under section 27(2) by publication on its website, which shall include a copy of the notice sent to the applicant.

## **PART 7**

### **LICENCE APPLICATIONS REQUIRING RETROSPECTIVE EIA OR SCREENING FOR RETROSPECTIVE EIA**

#### **Application for licence requiring retrospective EIA or screening for retrospective EIA**

38. (1) The procedure on receipt of an application for a licence under Regulation 30 shall apply to applications under this Part.

(2) The applicant for a licence, referred to in paragraph (1), shall publish a notice of their intention to apply for a licence—

- (a) in a newspaper circulating in the area in which the abstraction is situate, in accordance with Regulation 26, and
- (b) in a site notice in accordance with Regulation 27.

(3) Upon receipt of an application for a water abstraction and having issued such acknowledgement to the applicant under Regulation 30(2), the Agency shall, as soon as is practicable, publish the application on a website maintained by it.

(4) A notice under this Regulation shall specify that a retrospective EIA report has been submitted to the Agency as part of the application, or that any information or documentation required by the Agency to carry out a screening assessment for a retrospective EIA shall be submitted to the Agency as part of the application.

#### **Exceptionality test**

39. (1) The Agency shall conduct an exceptionality test required in accordance with section 30 of the Principal Act, not later than 8 weeks of the

date of submission of an application requiring retrospective EIA or screening for retrospective EIA under section 29(3) of the Principal Act.

(2) The Agency shall notify the applicant concerned in respect of the application, referred to in paragraph (1), in writing where it is not satisfied of the existence of exceptional circumstances such that it is appropriate to carry out a retrospective EIA.

(3) The Agency shall publish its determination of exceptional circumstances on a website maintained by it.

### **Retrospective EIA report**

40. (1) Where the Agency receives a request to issue an opinion on the scope and level of detail required in a retrospective EIA report under section 31(3) of the Principal Act, it may request such further information as it considers necessary to formulate such opinion.

(2) Where an opinion referred to in paragraph (1) has been provided, the EIA Report shall be based on that opinion, and include the information that may reasonably be required for reaching a reasoned conclusion on the significant effects on the environment of the proposed development, taking into account current knowledge and methods of assessment.

(3) The Agency shall issue its opinion, under paragraph (1), not later than 4 weeks of the date of receipt of the request, or of the date of receipt of further information requested, whichever is the later.

(4) In formulating its opinion under this Regulation, the Agency shall have regard to the following:

- (a) the environmental objectives of the water body concerned;
- (b) the matters specified at section 24(4) of the Principal Act;
- (c) the EIA Directive;
- (d) the matters specified at section 18(4) of the Principal Act;
- (e) the proposed period for which the abstraction is intended to operate;
- (f) the maximum daily rate of abstraction possible having regard to the existing or proposed infrastructure;
- (g) seasonal and temporal variations in the rate of abstraction;
- (h) the operation of any impoundment or associated works;
- (i) the results of the exceptionality test carried out in accordance with section 30 of the Principal Act;
- (j) any other matters the Agency considers necessary for the formulation of its opinion.

### **Retrospective screening determination**

41. (1) A notice of the Agency's retrospective screening determination shall be issued to the applicant in writing and a copy of the notice be published on a website maintained by the Agency.

(2) A notice of the Agency's retrospective screening determination shall include the matters specified at section 24(5) of the Principal Act.

(3) Where a screening determination is in relation to an abstraction specified in section 21(3)(b) of the Principal Act, it shall specify the timeframe within which a retrospective EIA report is to be submitted to the Agency to continue with the application process.

(4) Where a retrospective EIA report is not submitted within the timeframe specified under paragraph (3), the Agency may not commence the assessment of the licence application.

### **Grant or refusal of licence application under section 29 of Principal Act**

42. (1) Where the Agency gives notice to the applicant of its proposed decision under section 35(1), or decision to grant or refuse a licence under section 35(2), of the Principal Act, it shall do so in writing.

(2) Such notification, under paragraph (1), shall include the matters specified at section 35(1) and (2) of the Principal Act, as the case may be, and include the main reasons for the decision.

(3) The Agency shall notify the public of its proposed decision under section 35(1), or decision to grant or refuse a licence under section 35(2), of the Principal Act by publication on a website maintained by it, which shall include a copy of the notice sent to the applicant.

### **Decision where application was subject to retrospective EIA**

43. (1) An observation under section 35(1)(c) of the Principal Act shall be validly made where it is made within the 28-day period for making observations following the publication of a proposed decision of the Agency under section 35(1) of that Act.

(2) All observations, referred to in paragraph (1), shall be made in writing to the headquarters of the Agency—

- (a) via email to such email address as shall be published on a website maintained by the Agency, or
- (b) by electronic submission to website of the Agency where the Agency has provided a facility for such electronic submissions.

(3) Where the Agency receives a valid observation, under this Regulation, it shall confirm receipt of such observation via email.

(4) The Agency shall consider any observations validly made under this Regulation before making its decision to grant or refuse a licence under section 27(2) of the Principal Act.



## PART 8

### COMBINED APPLICATION FOR LICENCE AND EIA

#### **Application for licence requiring retrospective EIA or screening for a retrospective EIA**

44. (1) The procedure on receipt of an application for a licence under Regulation 30 shall apply to applications under this Part.

(2) The applicant shall publish notice of their intention to apply for a licence under this Part by one, or more, of the following means:

- (a) in a newspaper circulating in the area in which the abstraction is situate, in accordance with Regulation 26;
- (b) in a site notice in accordance with Regulation 27.

(3) A notice under this Regulation shall specify the following:

- (a) that in respect of the existing part of the abstraction a retrospective EIA report has been submitted to the Agency as part of the application, or that any information or documentation required by the Agency to carry out a screening assessment for a retrospective EIA shall be submitted to the Agency as part of the application;
- (b) that in respect of the proposed part of the abstraction, that an EIA report has been submitted to the Agency as part of the application, or that any information or documentation required by the Agency to carry out a screening assessment for an EIA shall be submitted to the Agency as part of the application.

#### **Exceptionality test for combined application for licence**

45. The exceptionality test provided under Regulation 39 shall apply to the existing element of a combined application for an abstraction, as it applies to an abstraction requiring retrospective EIA or screening for retrospective EIA.

#### **Grant or refusal of a licence under section 37 of Principal Act**

46. (1) Where the Agency gives notice to the applicant of its proposed decision under section 44(1), or decision to grant or refuse a licence under section 44(2), of the Principal Act, it shall do so in writing.

(2) Such notification, under paragraph (1), shall include the matters specified at section 44(1) and (2) of the Principal Act, as the case may be, and include the main reasons for the decision.

(3) The Agency shall notify the public of its proposed decision under section 44(1), or decision to grant or refuse a licence under section 44(2), of the Principal Act by publication on a website maintained by it, which notification shall include a copy of the notice sent to the applicant.

**Decision where application was subject to EIA or retrospective EIA**

47. (1) An observation under section 44(1)(c) of the Principal Act shall be validly made where it is made within the 28-day period for making observations on a proposed decision of the Agency under section 44(1) of the Principal Act.

(2) All observations, referred to in paragraph (1), shall be made in writing to the headquarters of the Agency—

- (a) via email to such email address as shall be published on a website maintained by the Agency, or
- (b) by electronic submission to website of the Agency where the Agency has provided a facility for such electronic submissions.

(3) Where the Agency receives a valid observation, under this Regulation, it shall confirm receipt of such observation via email.

(4) The Agency shall consider any observations validly made before making its decision to grant or refuse a licence under section 27(2) of the Principal Act.

(5) The notice of the application published on a website maintained by the Agency shall include, in addition to the requirements set out at Regulation 31, a statement that observations may be made on both the existing and proposed elements of the application and to the retrospective EIA report and EIA report as appropriate.

**PART 9**

**REVIEW OF LICENCES**

**Form of notice of intention to apply for review of conditions attached to licence**

48. An application for a review of a licence shall—

- (a) state the grounds on which it is made,
- (b) specify the reference number given to the relevant licence in the register,
- (c) include results of abstraction monitoring and other data, and
- (d) include the information specified in section 51(3) of the Principal Act.

**Form of notice of intention to review conditions attached to licence by Agency under section 52 of Principal Act**

49. (1) Where the Agency proposes to review the conditions attached to a licence under section 52 of the Principal Act of its own volition, it shall publish a notice of such intention in a newspaper circulating in the district in which the activity is, or shall be, situate.

(2) Every notice given in writing under section 52(2) of the Principal Act or published in accordance with paragraph (1) shall indicate the following:

- (a) the reference number given under section 11(5) of the Principal Act to the existing licence in the register of licences;
- (b) the reason for the review.

(3) A notice given in writing under section 52(2) of the Principal Act to the licensee shall indicate that a submission relating to the review may be made in writing to the Agency within 28 days of the date of the giving of the notice.

(4) A notice given in writing under section 52(2) of the Principal Act may require the licensee to submit such plans, documents, drawings, maps, evidence or other information and particulars as the Agency considers necessary for the purpose of the review.

(5) Where the licensee fails or refuses to comply with any requirement of the Agency under paragraph (4) within 28 days from the date of the notice, the Agency may proceed with its proposed decision of the review.

## **PART 10**

### **CONSIDERATION OF APPLICATIONS OR REVIEWS**

#### **Extension of time for proposed decision**

50. (1) The Agency may, and shall at the request of the Minister, before the expiration of the period specified in section 27(1), 35(1) or 44(1) of the Principal Act, extend the said period in such manner as it considers appropriate or as may be required by the Minister in the case of an application for a licence for an abstraction which would be likely to have significant effects on the environment in another Member State and in respect of which activity the Minister has been notified under Regulation 51.

(2) Where, in accordance with paragraph (1), the period specified in section 27(1), 35(1) or 44(1) of the Principal Act is extended, the Agency shall, as soon as may be, notify the applicant in writing and publish notice of the extension on a website maintained by the Agency.

#### **Transboundary consultation**

51. (1) Where—

- (a) the Agency receives an application and it appears to the Agency that the activity, the subject of the application, would or is likely to have significant effects on the environment in another Member State, or transboundary state, or
- (b) a Member State, or transboundary state, that is likely to be significantly affected by a project to be carried out in the State which is the subject of an application for a licence so requests,

the Agency shall, as soon as may be after receipt of the application or request, notify the appropriate competent authority in the Member State, or transboundary state, concerned in accordance with paragraphs (3) and (4).

(2) The Agency shall notify the Minister of any notification given in accordance with paragraph (1).

(3) The Agency shall include in a notification given under paragraph (1) the information specified in Regulation 26 in relation to the activity the subject of the application, together with any information available on the activity's possible transboundary impact.

(4) The Agency shall specify in a notification given under paragraph (1) a reasonable period of time (which shall not be less than 30 days) during which the Member State, or transboundary state, concerned may indicate whether or not it wishes to participate in the environmental decision-making procedure.

(5) Where a Member State, or transboundary state, that has been sent a notification under paragraph (1) indicates that it intends to participate in the environmental decision-making procedure, the Agency shall, before giving any notification under section 27, 35 or 44 of the Principal Act, indicating the manner in which it proposes to determine the application, consult with the Member State or transboundary state concerned—

- (a) regarding, amongst other things, the potential transboundary effects of the project and the measures envisaged to reduce or eliminate such effects, and
- (b) for the purposes of making arrangements, including the establishment of time-frames for consultations, to—
  - (i) make available within a reasonable time to the authorities referred to in Article 6(1) of the EIA Directive, and the members of the public concerned, in the territory of the Member State or transboundary state likely to be significantly affected, the information specified in Regulation 26,
  - (ii) ensure that those authorities and those members of the public are given an opportunity, before the proposed decision on the abstraction, to forward their opinion on the information made available, within a reasonable time (which shall not be less than 30 days), to the Agency, and
  - (iii) to enable the members of the public concerned in the territory of the affected Member State or transboundary state to participate effectively in the environmental decision-making procedure.

(6) Where the Minister receives information under paragraph (1) or (2) of Article 7 of the EIA Directive from another Member State, or relevant information from a transboundary state, he or she shall notify the Agency forwarding a copy of the information received.

(7) Where the Agency receives a notification from the Minister referred to in paragraph (6) or receives information referred to in that paragraph from another Member State, or transboundary state, the Agency shall consult with the Member State or transboundary state concerned—

- (a) regarding, amongst other things, the potential transboundary effects of the project and the measures envisaged to reduce or eliminate such effects, and
- (b) for the purposes of making arrangements, including the establishment of time-frames for consultations, to—
  - (i) make available, within a reasonable time, to the authorities referred to in the Schedule and to members of the public concerned—
    - (I) a description of the project, together with any available information on its possible transboundary impact,
    - (II) information on the nature of the decision which may be taken, and
    - (III) any information received by the Agency pursuant to Article 7(2) of the EIA Directive,
  - (ii) ensure that those authorities and those members of the public are given an opportunity, before the abstraction licence is granted or refused, to forward their opinion on the information made available, within a reasonable time, to the competent authority in the Member State, or transboundary state, as the case may, in whose territory the project is intended to be carried out, and
  - (iii) enable the public concerned in the State to participate effectively in the environmental decision-making procedure.

(8) Where an EIA report is received in respect of an application for a licence in accordance with any provision of Part 5 of the Principal Act the Agency shall notify each authority, person or body to which it has given notice under paragraph (1) that—

- (a) the EIA report submitted to the Agency as part of the application,
- (b) any information provided to the Agency under paragraph (5) and any opinion issued by the Agency under section 23, 31 or 40 of the Principal Act on the scope of the EIA report under section 23(3) of that Act, and
- (c) any further information, including reports and advice, relating to the EIA as may be furnished to the Agency in the course of the Agency's consideration of the application,

shall each be made available on a website maintained by the Agency, and that submissions may be made in writing to the Agency in relation to the likely

effects on the environment of the proposed activity within the period specified by the Agency on that website under this Regulation.

(9) The notification by the Agency referred to in paragraph (3) shall indicate the name of the planning authority where the EIA report under that paragraph has been submitted.

### **Inspection and availability of documents including EIA report**

52. (1) The Agency shall make the environmental information specified in paragraph (3) available to view and download for inspection from a website maintained by the Agency, as soon as practicable after its receipt by the Agency.

(2) In the event that a person cannot access the environmental information referred to in paragraph (3) on the Agency's website, the Agency shall upon request provide that information by any other effective means.

(3) For the purposes of paragraph (1), information to be made available includes but is not limited to the following:

- (a) an application for a licence;
- (b) any notice given in writing to the licensee under Part 5 of the Principal Act;
- (c) such other notices as are given by the Agency under Part 5 of the Principal Act or under these Regulations in respect of the application for a licence or the review of conditions attached to a licence;
- (d) such information, particulars, plans, drawings, maps including site location maps, photographs, evidence, environmental impact statements, notices, objections, submissions, views or observations as are received or obtained by the Agency from the applicant or licensee or any other person in accordance with Part 5 of the Principal Act or in accordance with these Regulations in respect of the application for a licence or the review of conditions attached to a licence;
- (e) any written submissions received by the Agency following the giving or publication of a notice under section 27, 35 or 44 of the Principal Act.

### **Withdrawal of application for licence or for review of licence**

53. (1) An application for a licence or review of conditions attached to a licence may be withdrawn by the applicant or licensee at any time before the making of the decision of the Agency on the application.

(2) Where the Agency has requested further information from an applicant in relation to a licence application under section 26, 34 or 43 of the Principal Act, or in relation to an application for a review of conditions attached to the licence, it may give to the applicant a notice stating that fact and require that person, within a period specified in the notice (being a period of not less than 14 or not more than 28 days beginning on the date of the giving of the notice), to

make to the Agency a submission in writing as to why the application shall not be regarded as having been withdrawn.

(3) Where a notice has been given under paragraph (2), the Agency may, at any time after the expiration of the period specified in the notice, and after considering the submission (if any) made to the Agency pursuant to the notice, declare that the application to which the notice relates shall be regarded as having been withdrawn.

## **PART 11**

### **NOTIFICATIONS AND PUBLICATION**

#### **Publication of proposed decisions by Agency**

54. (1) The Agency shall, as soon as may be from the giving of a notification under section 27(1), 35(1) or 44(1) of the Principal Act, publish a notice of its proposed decision on a website maintained by it and in a newspaper circulating in the district in which the activity is, or shall be, situate, a notice indicating the following:

- (a) the reference number given under section 11(5) of the Principal Act to the abstraction in the register of abstractions;
- (b) the name and address of the applicant or the licensee;
- (c) the activity and nature of the abstraction in accordance with the Principal Act;
- (d) the location and postal address (including, where appropriate, the name of the relevant townland or townlands) of the premises to which the application or review relates;
- (e) the date of the giving of the notification under section 27(1), 35(1) or 44(1), as the case may be, of the Principal Act;
- (f) the manner in which the Agency proposes to determine the application or review;
- (g) where a copy of the proposed licence or revised licence or the proposed reasons for refusal, as the case may be, may be obtained;
- (h) that an observation, which shall include the grounds for the observation and be accompanied by the appropriate fee specified in accordance with section 64(3) of the Principal Act, may be made to the Agency within the appropriate period.

#### **Notification of proposed decision of application for licence to relevant parties**

55. Every notification given under section 27(1), 35(1) or 44(1) of the Principal Act shall, in addition to the matters specified in the subsections of those sections, specifying the following:

- (a) the reference number given under section 11(5) of the Principal Act to the application or the review in the register of abstractions;
- (b) the activity to which the proposed decision relates;
- (c) the date of the giving of the notification;
- (d) where it is proposed to grant a licence the conditions, if any, to be attached and the reasons therefor and where a copy of the proposed licence or revised licence may be obtained;
- (e) where it is proposed to refuse to grant a licence or revised licence, the reasons for such refusal;
- (f) that an observation with regard to the proposed decision, which shall include the grounds for the observation, may be made to the Agency in accordance with the following:
  - (i) in the case of the applicant or the licensee the period of 28 days beginning on the day of the giving of the notification;
  - (ii) in any other case, the period of 28 days beginning on the day of the giving of the notification;
- (g) that the decision of the Agency shall be in accordance with the proposed decision and shall be issued as soon as may be after the expiration of the appropriate period where no observation is made, where an observation is made or where an observation validly made is withdrawn.

## **PART 12**

### **OBSERVATIONS IN RELATION TO PROPOSED DECISION**

#### **Form and content of observations**

56. (1) An observation under these Regulations shall—
- (a) be made in writing,
  - (b) state the name and address of the person making the observation,
  - (c) state the reference number given under section 11(5) of the Principal Act to the application or the review in the register of licences and the subject matter of the observation,
  - (d) state the grounds for the observation and the reasons, considerations and arguments on which it is based, and
  - (e) shall be made not later than 28 days of the date of publication by the Agency of its proposed decision in relation to a licence application.

(2) A person making an observation under these Regulations shall not be entitled to elaborate in writing upon, or make further submissions in writing in relation to, the grounds for the observation stated in the observation, or to submit



further grounds of observations and any such elaboration, submission or further grounds for the observation that is, or are, received by the Agency shall not be considered by it.

- (3) (a) An observation under these Regulations shall be accompanied by such documents, particulars or other information relating to the observation as the person making the observation considers necessary or appropriate.
- (b) Without prejudice to paragraph (2), the Agency shall not consider any documents, particulars or other information submitted by a person making an observation under these Regulations other than the documents, particulars or other information which accompanied the observation.
- (4) An observation under these Regulations shall be made—
  - (a) by sending the observation by prepaid post to the headquarters of the Agency,
  - (b) by leaving the observation with an employee of the Agency at the headquarters of the Agency during office hours, or
  - (c) online via the website of the Agency where such facility is made available by the Agency.
- (5) The Agency shall as soon as may be after receipt of an observation acknowledge receipt of an observation made under these Regulations.
- (6) The Agency shall consider any observations validly made under these Regulations before making its decision to grant or refuse a licence under section 27(2) of the Principal Act.

### **Circulation of observations**

- 57. (1) The Agency shall, as soon as may be after receipt of an observation, give a copy thereof to each other party that made observations.
- (2) Each other party to the observation may make further observations in writing to the Agency in relation to an observation, circulated under paragraph (1), within a period of 30 days beginning on the day on which a copy of the observation is sent to that party by the Agency.
- (3) Any observations received by the Agency after the expiration of the period mentioned in paragraph (2) shall not be considered by the Agency.
- (4) Where no submissions have been received from a party to an observation within the period mentioned in paragraph (2), the Agency may without further notice to that party consider the observation.
- (5) A party to the observation shall not be entitled to elaborate in writing upon any observations made in accordance with paragraph (2) or make any further observations in writing in relation to the observation and any such elaboration that is received by the Agency shall not be considered by it.

## PART 13

### SURRENDER, TRANSFERS, REVOCATIONS AND SUSPENSIONS

#### Surrender

58. (1) An application for the surrender of a licence shall be in such form and manner as may be specified by the Agency.

(2) The Agency shall notify such persons or public authorities as it considers necessary in accordance with section 49(8) of the Principal Act and the notice given shall request any information be provided within 28 days from the date of the issue of the notice.

#### Transfer

59. The Agency shall give notice of its decision on an application under section 50(2) of the Principal Act to transfer the licence to the persons who make the application and shall—

- (a) give to the persons concerned the main reasons for the decision, and
- (b) publish on a website maintained by it the decision and the main reasons for the decision.

#### Revocation or suspension of licence

60. (1) On the giving of notice to the licensee of its proposal to revoke or suspend a licence in accordance with section 53(2) of the Principal Act, the Agency shall specify that observations on the Agency's proposal must be received in writing not more than 28 days from the date of issue of the notice.

(2) On the giving of notice to any person in accordance with section 53(2) of the Principal Act, the Agency shall specify that any information requested from the person in relation to the proposal be provided within 28 days from the date of the issue of the notice.

(3) The Agency shall, as soon as may be following receipt of observations or information under paragraph (1) or (2), as the case may be, publish on a website maintained by the Agency, a notice of the Agency's decision to revoke or suspend a licence.

#### Termination of suspension

61. The Agency may give notice, in writing, to any person it notified under Regulation 60 of its intention to revoke or terminate a licence and, where the Agency considers it appropriate, it may request information from the person concerned in relation to the proposal to be provided to the Agency within the period specified in the notice.

## **PART 14**

### **CLERICAL OR TECHNICAL AMENDMENT OF LICENCE**

#### **Clerical or technical amendment of licence**

62. The Agency shall, as soon as may be after the exercise of the power under section 59(1) of the Principal Act, publish particulars of the amendment effected by the exercise of that power on a website maintained by the Agency.

## **PART 15**

### **REGISTER AND INFORMATION**

#### **Amendment, and publication, by Agency of register**

63. (1) Where the Agency makes an amendment to an entry in the register of abstractions under section 10(4) of the Principal Act, it shall notify the person concerned carrying out the abstraction of the following:

- (a) the registration number associated with the abstraction;
- (b) the reason for the amendment to the register, having regard to that section of the Principal Act.

(2) The Agency may publish any of the information contained in the register as it considers appropriate on a website maintained by it or in such other manner as it considers appropriate.

#### **Provision of information to Agency**

64. A person carrying out an abstraction referred to in section 10(2)(a) of the Principal Act shall, not later than one month of the material change taking place, give written notice to the Agency of any material change to the particulars specified in section 11(4) of that Act.

## **PART 16**

### **OFFENCES**

#### **Penalties and prosecutions**

65. (1) Proceedings in relation to an offence under these Regulations may be prosecuted by the Agency.

(2) Where an offence under these Regulations is committed by a body corporate and is proven to have been so committed with the consent, connivance

or approval of, or to have been attributable to the wilful neglect on the part of, any person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she was guilty of the first-mentioned offence.

(3) Where the affairs of a body corporate are managed by its members, paragraph (3) applies in relation to the acts and defaults of a member in connection with the functions of management as if the member were a director or manager of the body corporate.

(4) A reference to an offence in this Regulation includes a breach of a penal provision referred to in these Regulations.

**SCHEDULE**

*Regulations 5(4)(c) and 51(7)(b)(i)*

Public Authorities

1. an entity mentioned in the Schedule to the Principal Act;
2. Met Éireann;
3. the National Parks and Wildlife Service.



GIVEN under my Official Seal,  
28 August, 2024.

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 purpose for which these Regulations are made, in exercise of the powers conferred on the Minister for Housing, Local Government and Heritage by sections 4, 8, 9 and 57 of the Water Environment (Abstractions and Associated Impoundments) Act 2022 (No. 48 of 2022), is to provide for the regulation of water abstractions and their associated impoundments and to give further effect to Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000<sup>1</sup> and Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2012<sup>2</sup>.

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