



STATUTORY INSTRUMENTS.

S.I. No. 249 of 2012



EUROPEAN UNION (ENVIRONMENTAL IMPACT ASSESSMENT OF
PROPOSED DEMOLITION OF NATIONAL MONUMENTS)
REGULATIONS 2012

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I, JIMMY DEENIHAN, Minister for Arts, Heritage and the Gaeltacht, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 2011/92/EU¹ of the European Parliament and of the Council of 13 December 2011, insofar as it applies to demolition of national monuments, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Environmental Impact Assessment of Proposed Demolition of National Monuments) Regulations 2012.

Interpretation

2. (1) In these Regulations—

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

Amendment of the Act of 1930

3. The Act of 1930 is amended by the insertion of the following section after section 14C:

“Environmental Impact Assessment of proposed demolition of a national monument

14D. (1) In this section—

“applicant” means:

- (a) the person or body to whom or which, as the case may be, a consent would be granted if the Minister’s discretion under section 14 (2) (a) were to be exercised so as to grant a consent; or
- (b) the road authority to which directions would be issued if the Minister’s discretion under section 14A (4) (d) were to be exercised so as to issue directions;

“consent” means a consent as referred to in section 14 (2) (a);

“directions” means directions as referred to in section 14A (4) (d);

¹OJ No. L26 28.1.2012, p. 1.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 17th July, 2012.*

“environmental impact assessment” means an assessment, being an assessment which includes an examination, analysis and evaluation, by the Minister that identifies, describes and assesses in an appropriate manner, in light of each individual case and in accordance with Articles 4 to 11 of the Directive, the direct and indirect effects which proposed demolition of a national monument would have on the following:

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

“environmental impact statement” means a written statement of the direct and indirect effects, if any, which proposed demolition of a national monument, if carried out, would have on the environment and which contains the information which an environmental impact statement is required to contain under this section;

“the Directive” means Directive 2011/92/EU¹ of the European Parliament and of the Council of 13 December 2011.

(2) A word or expression used in this section has the same meaning as in the Directive except as otherwise provided for in this section or where the context otherwise requires.

(3) The Minister shall, before deciding whether or not to grant a consent or issue directions which, if granted or issued as the case may be, would result in the demolition of a national monument, ensure that that proposed demolition has been subject to an environmental impact assessment.

(4) An applicant shall, in a case where the grant of a consent or the issuing of directions, as the case may be, would result in the demolition of a national monument, submit to the Minister an environmental impact statement in respect of that demolition.

(5) Where the Minister is considering whether or not to grant a consent or issue directions, as the case may be, and it appears to the Minister that the granting of the consent or the issuing of the directions, as the case may be, would result in the demolition of a national monument but the applicant has not submitted an environmental impact statement to the Minister, the Minister shall, as soon as may be, require the applicant to submit to the Minister an environmental impact statement in respect of that demolition and the applicant shall comply with that requirement.

(6) Subject to subsection (11), an environmental impact statement submitted to the Minister under this section shall include, in relation to the

¹OJ No. L26 28.1.2012, p. 1.

proposed demolition of the relevant national monument, the information specified in Annex IV of the Directive.

(7) If an applicant, before submitting an environmental impact statement in accordance with this section, so requests, the Minister shall, after consulting the applicant, the Director of the National Museum of Ireland and the local authority in whose functional area the relevant national monument is situated and any other persons or bodies as the Minister considers appropriate in the circumstances, give a written opinion on the information to be contained in that statement.

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

- (a) the name and address, and telephone number and e-mail address, if any, of the applicant;
- (b) the location, townland or postal address of the land on which the relevant national monument is situated;
- (c) a brief description of the proposed demolition and of its possible effects on the environment.

(9) Where the Minister considers that he or she has insufficient information to enable him or her to give a written opinion in relation to a request under subsection (7), the Minister shall, as soon as may be, inform in writing the applicant that he, she or it is required to submit in writing specified further information within a specified time and the applicant shall comply with that requirement.

(10) In dealing with a request under subsection (7) the Minister shall have regard to:

- (a) the information required to enable the Minister to exercise his or her function under subsection (3) or to ensure compliance with the Directive;
- (b) any information provided under subsection (8) and any further information submitted under subsection (9);
- (c) the consultations under subsection (7).

(11) A written opinion provided by the Minister under subsection (7) shall indicate the extent to which the information specified in Annex IV of the Directive should be contained in the environmental impact statement to which the request made under subsection (7) related.

(12) The giving by the Minister of a written opinion under subsection (7) shall not prevent the Minister from requiring an applicant to submit further information under this section.

(13) Subject to subsection (14), the Minister may, at the request of the applicant and having consulted with the Director of the National Museum, the local authority in whose functional area the national monument is situated and any other person or body the Minister considers appropriate, grant, in respect of proposed demolition of a national monument, an exemption from the requirements of this section where he or she is satisfied that exceptional circumstances so warrant.

(14) An exemption shall not be granted under subsection (13) if another Member State, having been informed about the proposed demolition and its likely effects on the environment in that State, has indicated that it intends to furnish views on those effects.

(15) The Minister shall, in granting an exemption under subsection (13), consider whether—

- (a) the effects, if any, on the environment of the proposed demolition of the national monument should be assessed in some other manner, and
- (b) the information arising from the assessment should be made available to the public,

and the Minister may apply such requirements regarding these matters as he or she considers necessary or appropriate and the applicant shall comply with those requirements.

(16) Notice of any exemption granted under subsection (13), of the reasons for granting the exemption and of any requirements applied under subsection (15) shall, as soon as may be,—

- (a) be published in *Iris Oifigiúil* and in at least one newspaper circulating in the district in which the relevant national monument is situated, and
- (b) be given, together with a copy of the information, if any, made available to the public in accordance with subsection (15), to the Commission of the European Union.

(17) Where an applicant is required under this section to submit an environmental impact statement, the applicant shall, not more than 2 weeks before submitting the environmental impact statement, publish notice of his, her or its intention to do so in at least one newspaper circulating in the district in which the relevant national monument is situated.

(18) A notice under subsection (17) shall state the following:

- (a) the name of the applicant required to submit the environmental impact statement;

- (b) the location, townland or postal address of the land on which the national monument in question is situated;
- (c) the nature and extent of the proposed demolition;
- (d) that an environmental impact statement in relation to the proposed demolition of the national monument in question will be submitted to the Minister in accordance with this section;
- (e) that the environmental impact statement will be available for inspection free of charge or purchase, at a fee not exceeding the reasonable cost of making a copy, during office hours at the offices of the Minister or such other convenient place as the Minister may specify;
- (f) that submissions or observations in relation to the environmental impact statement may be made in writing to the Minister within 5 weeks of the date of receipt by the Minister of the environmental impact statement.

(19) The Minister shall specify such arrangements as he or she considers appropriate to allow the matters referred to in paragraphs (e) and (f) of subsection (18) to have effect.

(20) When submitting an environmental impact statement to the Minister under this section the applicant shall accompany it with a copy of the relevant page of the newspaper in which a notice under subsection (17) was published.

(21) Where it appears to the Minister that a notice published under subsection (17)—

- (a) does not comply with any of the requirements of subsections (17) or (18), or
- (b) because of its content or for any other reason, is misleading or inadequate for the information of the public,

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

(22) Where an applicant submits an environmental impact statement to the Minister under this section the Minister shall, as soon as may be following receipt of that statement, send a copy of the environmental impact statement to the Director of the National Museum, the local authority in whose functional area the relevant national monument is situated and any other person or body the Minister considers appropriate in the circumstances.

(23) The Minister shall, when sending an environmental impact statement to a person or body under subsection (22), inform the person or body that that a submission or observation in relation to the effects on the environment of the proposed demolition of the relevant national monument may be made in writing to the Minister within 5 weeks of the date of receipt by the Minister of the environmental impact statement.

(24) The Minister shall consider whether an environmental impact statement submitted under this section:

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

(25) Where the Minister considers that an environmental impact statement submitted under this section—

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

the Minister shall require the applicant to submit to her or him any further information the Minister considers necessary for the purpose of remedying the matters referred to in paragraphs (a) to (c), and the applicant shall comply with that requirement.

(26) In addition to any requirement arising under subsection (25), the Minister shall require an applicant to provide any further information which the Minister considers necessary to enable her or him to carry out an environmental impact assessment, and the applicant shall comply with that requirement.

(27) The Minister shall give notice in writing to the applicant of any requirement for further information under subsections (25) or (26) and any notice so given to an applicant shall, where applicable, specify in what way the relevant environmental impact statement does not comply with this section or with a written opinion given under subsection (7) or does not identify or describe adequately the direct and indirect effects on the environment of the proposed demolition.

(28) Where the Minister considers that further information submitted under subsections (25) or (26) contains significant additional data in relation to the effects on the environment of the proposed demolition of the relevant

national monument, the Minister shall, as soon as may be after receipt of that further information,—

- (a) send a copy of the further information to any person or body consulted under subsection (22) and inform that person or body that a submission or observation in relation to the further information may be made in writing to the Minister within a specified period,
- (b) notify any person or body who or which, as the case may be, made a submission or observation in relation to the proposed demolition of the relevant national monument of the matters specified in subsection (30), and
- (c) require the applicant to publish a notice in at least one newspaper circulating in the district in which the relevant national monument is situated stating the matters specified in subsection (31).

(29) An applicant shall comply with a requirement under subsection (28) (c).

(30) The matters specified for the purpose of subsection (28) (b) are:

- (a) that significant additional data in relation to the effects on the environment of the proposed demolition of the relevant national monument has been provided to the Minister and that the further information submitted to the Minister containing that data is available for inspection, free of charge or for purchase at a fee not exceeding the reasonable cost of making a copy, at the offices of the Minister or such other convenient place as the Minister may specify;
- (b) that a submission or observation in relation to the further information may be made in writing to the Minister within a period specified by the Minister.

(31) The matters specified for the purpose of subsection (28) (c) are:

- (a) the name of the applicant required to submit the relevant environmental impact statement;
- (b) the location, townland or postal address of the land on which the relevant national monument is situated;
- (c) that significant additional data in relation to the effects on the environment of the proposed demolition of the relevant national monument has been provided to the Minister and that the further information submitted to the Minister containing that data is available for inspection, free of charge or for purchase at a fee not exceeding the reasonable cost of making a copy, at the offices

of the Minister or such other convenient place as the Minister may specify;

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

(32) The Minister shall specify such arrangements as he or she considers appropriate to allow the matters referred to in paragraphs (a) and (b) of subsection (30) and paragraphs (c) and (d) of subsection (31) to have effect.

(33) Where it appears to the Minister that a notice published under subsection (28) (c)—

- (a) does not comply with any of the requirements of subsections (28) (c) or (31), or
- (b) because of its content or for any other reason, is misleading or inadequate for the information of the public,

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

(34) The Minister shall not grant a consent or issue directions other than where the requirements of this section, including any requirement placed on an applicant by the Minister under this section, have been complied with.

(35) In carrying out an environmental impact assessment under this section the Minister shall take into account the following matters:

- (a) the environmental impact statement which was submitted to the Minister;
- (b) any further information submitted to the Minister under this section;
- (c) any submissions or observations made in accordance with this section in relation to the environmental effects of the proposed demolition of the relevant national monument;
- (d) the views, if any, provided by any other Member State under this section.

(36) Where an environmental impact assessment has been carried out by the Minister under this section, the Minister shall, in deciding whether or not to grant a consent or issue directions, take into account the following matters:

- (a) the environmental impact assessment and its results and findings;

- (b) the environmental impact statement which was submitted to the Minister;
- (c) any further information submitted to the Minister under this section;
- (d) any submissions or observations made in accordance with this section in relation to the environmental effects of the proposed demolition of the relevant national monument;
- (e) the views, if any, provided by any other Member State under this section.

(37) In carrying out an environmental impact assessment under this section the Minister may take into account any reports prepared by her or his officers, agents or servant or by any consultants or advisors engaged by the Minister, whether or not for valuable consideration, for the purpose of assisting her or him in the exercise of her or his functions under this section.

(38) Where an environmental impact assessment has been carried out by the Minister under this section, the Minister may, in deciding whether or not to grant a consent or issue directions, take into account any reports prepared by her or his officers, agents or servants or by any consultants or advisors engaged by the Minister, whether or not for valuable consideration, for the purpose of assisting her or him in the exercise of her or his functions under this section.

(39) Where, following the carrying out of an environmental impact assessment under this section, the Minister exercises her or his discretion to grant a consent or issue directions the Minister may attach to such consent or directions, as the case may be, any conditions, requirements or similar matters which the Minister considers necessary to avoid, reduce and, if possible, offset the major adverse effects of the proposed demolition of the relevant national monument.

(40) Subsection (39) is without prejudice to any other power of the Minister to attach conditions, requirements or similar matters to a consent or directions.

(41) Subsections (36), (38) and (39) shall have effect notwithstanding any provision of sections 14, 14A or 14C relating to the matters to be considered by the Minister in the exercise of his or her discretion as to whether or not to grant a consent or issue directions.

(42) Where the Minister considers that proposed demolition of a national monument which is the subject of an environmental impact statement under this section would be likely to have significant effects on the environment in another Member State, or where another Member State considers that the proposed demolition of that national monument would be likely to have such effects and so requests, he or she shall, as soon as possible, send to that other Member State—

- (a) a description of the proposed demolition of the relevant national monument and any available information on its possible effects on the environment in that Member State, and
- (b) relevant information about the procedure for deciding whether or not to grant consent or issue directions in relation to the proposed demolition of the relevant national monument,

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

(43) Where a Member State which has received information under subsection (42) of this section indicates that it wishes to provide views on the likely effects on the environment of the proposed demolition of the national monument, the Minister shall send to that Member State-

- (a) if he or she has not already done so, a copy of the environmental impact statement submitted to the Minister under this section, and
- (b) any further relevant information about the procedure for deciding whether or not to grant consent or issue directions in relation to the proposed demolition of the relevant national monument.

(44) Where a Member State has, under subsection (43), indicated that it wishes to provide views on the likely effects on the environment of the proposed demolition of a national monument, the Minister shall consult with that Member State regarding the potential effects of the proposed demolition on the environment in that Member State and the measures envisaged to reduce or eliminate such effects.

(45) The Minister shall notify a Member State which was consulted under subsection (44) of his or her decision as to whether or not to grant consent or issue directions in respect of the proposed demolition of the relevant national monument.

(46) The Minister shall, as soon as may be following the making of a decision in relation to whether or not to grant consent or issue directions in respect of proposed demolition of a national monument,—

- (a) publish notice of the decision in at least one newspaper circulating in the district in which the relevant national monument is situated, and
- (b) arrange to make the relevant environmental impact statement submitted under this section and information on the decision available for inspection by members of the public during a period specified by the Minister.

(47) Information made available under subsection (46) (b) shall include the following:

- (a) the content of the consent or directions, if such were granted or issued as the case may be, including any conditions, requirements or similar matters attached to the consent or directions;
- (b) the Minister's evaluation of the direct and indirect effects of the demolition of the relevant national monument on the factors specified in paragraphs (a) to (c) of the definition of "environmental impact assessment" as set out in subsection (1) and on the interaction between those factors;
- (c) having examined the concerns and opinions expressed by the public concerned, the main reasons and considerations on which the decision is based, including information about the public participation process;
- (d) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects;
- (e) information for the public on the procedures available to review the substantive and procedural legality of the decision.

(48) For the purposes of paragraph (c) of subsection (47), "decision" includes any conditions, requirements or similar matters attached to the consent or directions.

(49) Without prejudice to subsection (27), where under any provision of this section the Minister requires an applicant to do any thing, the requirement shall be specified in written notice to the applicant in such form as the Minister may determine."

9 July 2012.

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

EXPLANATORY NOTE

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

The Regulations amend the National Monuments Act 1930 (No. 2 of 1930) to require the carrying out of an environmental impact assessment where a decision to grant consent under section 14 (2) (a) of that Act, or to issue directions under section 14A (4) (d) of that Act, would result in the demolition of a national monument.

Section 14 (1) of the National Monuments Act 1930 prohibits certain actions affecting national monuments of which the Minister for Arts, Heritage and the Gaeltacht or a local authority are the owners or guardians, or in respect of which a preservation order is in force, unless the consent of the Minister has been granted under section 14 (2) (a). Section 14A (4) (d) provides for directions by the Minister for Arts, Heritage and the Gaeltacht to a road authority in respect of a national monument newly discovered in the course of works being carried out in connection with an approved road development for the purposes of the Road Act 1993 (No. 14 of 1993).

This amendment of the National Monuments Act 1930 is necessitated by the requirement to give effect in Irish law to Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, in so far as it relates to demolition of national monuments.

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