



STATUTORY INSTRUMENTS.

S.I. No. 692 of 2020

PLANNING AND DEVELOPMENT (AMENDMENT) (NO. 2)
REGULATIONS 2020

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I, PETER BURKE, Minister of State at the Department of Housing, Local Government and Heritage, in exercise of the powers conferred on me by subsection (1) of section 177N (inserted by section 57 of the Planning and Development (Amendment) Act 2010 (No. 30 of 2010)) and section 262 of the Planning and Development Act 2000 (No. 30 of 2000) (as adapted by the Housing, Planning and Local Government (Alteration of Name of Department and Title of Minister) Order 2020 (S.I. No. 408 of 2020)) and by the Housing, Local Government and Heritage (Delegation of Ministerial Functions) Order 2020 (S.I. No. 559 of 2020), hereby make the following regulations:

Citation

1. (1) These Regulations may be cited as the Planning and Development (Amendment) (No. 2) Regulations 2020.
- (2) These Regulations and the Planning and Development Regulations 2001 to 2020 shall be construed as one and may be collectively cited as the Planning and Development Regulations 2001 to 2020.

Interpretation

2. In these Regulations “Principal Regulations” means the Planning and Development Regulations 2001 (S.I. No. 600 of 2001).

Amendment of Article 226 of the Principal Regulations

3. Article 226 of the Principal Regulations is amended by the substitution of “articles 223(1)(b), 225, 233A(1)(b) and 233C,” for “articles 223(1)(b) and 225.”

Insertion of new Articles 233A, 233B, 233C, 233D, 233E, 233F, 233G, and 233H into the Principal Regulations

4. The Principal Regulations are amended by inserting the following articles after article 233:

“Additional notice of application for substitute consent
233A. (1) An applicant shall, where the Board has required the applicant to do so under section 177K(1D) of the Act, —

- (a) give notice in accordance with article 233B,
and

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 5th January, 2021.*

- (b) give notice by the erection or fixing of a site notice in accordance with article 233C,

and submit a copy of such notices to the Board.

- (2) The requirement of sub-article (1)(b) shall not apply in relation to an application for development consisting of the construction or erection by an electricity undertaking of overhead transmission or distribution lines for conducting electricity, or development consisting of the construction or erection by any statutory undertaker authorised to provide a telecommunications service of overhead telecommunications lines.

Additional notice in newspaper

233B. A notice published in accordance with article 233A(1)(a) shall be published in a newspaper approved under article 18(2) by the planning authority for the area in which the development the subject of the application for substitute consent is located, shall contain as a heading “Additional Notice: Application to An Bord Pleanála for Substitute Consent” and shall—

- (a) state the Board’s reference number of the application,
- (b) state the name of the applicant,
- (c) state the location, townland or postal address of the land or structure to which the application relates (as may be appropriate),
- (d) give a brief description of the nature and extent of the development, including—
 - (i) where the application relates to development consisting of or comprising the provision of houses, the number of houses provided,
 - (ii) where the application relates to development consisting of or comprising the carrying out of works to a protected structure or proposed protected structure, an indication of that fact,
 - (iii) where the application relates to development comprising or for the purposes of an activity requiring an integrated pollution prevention and control licence or a waste licence, an indication of that fact,
 - (iv) where the application relates to development in a strategic development zone, an indication of that fact,
- (e) state that the application is accompanied by a remedial EIAR or remedial NIS, or both that report and that statement, where that is the case,
- (f) where information has been furnished to the Board in accordance with an invitation or requirement under section

177K(1C) of the Act, state that the application is accompanied by such information,

- (g) state that the application and accompanying documentation may be inspected, or purchased at a fee not exceeding the reasonable cost of making a copy, at the offices of the Board and the relevant planning authority during its public opening hours, and is available on the internet website of the Board, and that a submission or observation in relation to the application and accompanying documentation, including any information submitted in accordance with an invitation or requirement under section 177K(1C) of the Act, may be made to the Board in writing not later than 5 weeks after receipt by the Board of a copy of the notices under sub-article (1) of article 233A.

Additional Site notice

233C. (1) A site notice erected or fixed on any land or structure in accordance with article 233A(1)(b) shall—

- (a) be in the form set out at Form No. 6A of Schedule 3, or a form substantially to the like effect, and
(b) be inscribed or printed in indelible ink on a white background, affixed on rigid, durable material and secured against damage from bad weather and other causes.
(2) The provisions of paragraphs (b) and (c) of sub-article (1) of article 19 and sub-articles (2) and (3) of article 19, shall apply to a notice erected or fixed under sub-article (1), save that a reference to the planning authority shall be construed as a reference to the Board.

Procedure on receipt of additional notice of application for substitute consent

233D. (1) On receipt of a copy of the notices under sub-article (1) of article 233A, the Board shall consider whether the applicant has complied with the requirements of articles 233B and 233C.

(2) Subject to sub-article (3), where-

- (a) following its consideration under sub-article (1), or
(b) on inspection of the land to which the application for substitute consent relates,

the Board considers that the requirements of articles 233A, 233B, 233C or 226 have not been complied with, the Board shall require the applicant to give such further notices in such a manner and in such terms as the Board may specify.

(3) Sub-article (2) shall not apply where the Board is satisfied that the applicant complied with the provisions of articles 233A, 233B and

233C but that any site notice erected by the applicant has been maliciously defaced or destroyed by any person other than the applicant.

Making the application for substitute consent and any information available for inspection

233E. (1) Where a planning authority receives a copy of information from the Board pursuant to section 177K(1D)(d) of the Act, it shall make the application for substitute consent and all associated documentation received from the Board pursuant to section 177E(5) of the Act and the information received from the Board pursuant to section 177K(1D)(d) of the Act, available for inspection, or purchase at a fee not exceeding the reasonable cost of making a copy, at its offices during its public opening hours

(2) Where no information is furnished by the applicant to the Board pursuant to an invitation under paragraph (a) of section 177K(1C) of the Act after the expiry of the period specified by the Board in that invitation, the Board shall as soon as may be request the planning authority concerned to make the application for substitute consent and all associated documentation available for inspection, or purchase at a fee not exceeding the reasonable cost of making a copy, at its offices during its public opening hours, notwithstanding the application's already having been made available for inspection or purchase by members of the public in accordance with article 229 before the coming into operation of this article.

Additional notice to certain bodies

233F. (1) Where the Board is required to do so in accordance with section 177K(1D)(c) of the Act, the Board shall as soon as may be after receipt of a copy of the notices under sub-article (1) of article 233A give notice as appropriate to a body or bodies prescribed in article 28(1) and (4).

(2) Notice given by the Board pursuant to sub-article (1) shall include a copy of the application referred to in article 227(1), including any electronic copy of the documentation and any information submitted in accordance with an invitation or requirement under section 177K(1C) of the Act, as appropriate, and of the location map referred to in article 227(2)(b) and shall state-

- (a) the date of receipt by the Board of the application and any information submitted in accordance with an invitation or requirement under section 177K(1C) of the Act, and
- (b) that any submission or observation made to the Board in relation to the application before the decision is made on the application will be considered by the Board in making its decision on the application and that the Board will make its decision not earlier than 5 weeks from the date of the notice.

(3) Where a prescribed body which has been notified under sub-article (2) requests a copy of some or all of the documentation accompanying the application the Board shall make that documentation available to the prescribed body as soon as possible.

(4) The Board shall acknowledge any submissions or observations from prescribed bodies as soon as may be after receipt thereof.

(5) Where a prescribed body to whom notice is sent pursuant to sub-article (1) does not make a submission or observation in relation to an application for substitute consent within a period of 5 weeks from the date of the notice, the Board may determine the application without further notice to that body.

(6) (a) The Board may, with the consent of any person or body referred to in sub-article (1), send notice under that sub-article, in electronic form.

(b) Where the Board so consents, a submission or observation referred to in sub-article (2)(b) may be made in electronic form.

Notice to persons who made a submission or observation in relation to the application for substitute consent

233G. The Board shall, in respect of an application for substitute consent to which section 177K(1D) of the Act applies, as soon as may be after receipt of a copy of the notices under sub-article (1) of article 233A, notify any person who made a submission or observation in relation to the application for substitute consent in accordance with article 231, indicating—

- (i) that the application for substitute consent, including any information furnished to the Board in accordance with an invitation or requirement under section 177K(1C) of the Act, is available for inspection or purchase at a fee not exceeding the cost of making a copy, at the offices of the Board during its public opening hours and on the internet website of the Board, and
- (ii) that a submission or observation in relation to the application for substitute consent, including any information furnished in accordance with an invitation or requirement under section 177K(1C) of the Act, may be made in writing to the Board not later than 5 weeks after receipt by the Board of a copy of the notices under sub-article (1) of article 233A.

Additional submissions or observations in relation to an application for substitute consent

233H. (1) (a) Any person may make a submission or observation in writing to the Board in relation to an application not later than 5 weeks after receipt by the Board of a copy of the notices under sub-article (1) of article 233A.

- (b) Any submission or observation received shall—
 - (i) state the name and address of the person making the submission or observation, and
 - (ii) indicate the address to which any correspondence relating to the application should be sent.
- (2) The Board shall acknowledge any submissions or observations received under sub-article (1) as soon as may be after receipt thereof.
- (3) Where a submission or observation, under this article, is received by the Board later than 5 weeks after receipt by the Board of a copy of the notices under sub-article (1) of article 233A, the Board shall return to the person concerned the submission or observation received, and notify the person that the submission or observation cannot be considered by the Board.
- (4) Where the Board so consents, a submission or observation under sub-article (1) may be made in electronic form.”.

Amendment of Article 235 of the Principal Regulations

5. Article 235 of the Principal Regulations is amended by the substitution of “article 230, 231, 233F, or 233H” for “article 230 or 231”.

Amendment of Schedule 3 to the Principal Regulations

6. Schedule 3 to the Principal Regulations is amended by the insertion of Form No. 6A in the Schedule attached to these Regulations after Form No. 6 in Schedule 3 to the Principal Regulations.

Schedule

Form No. 6A

Article 233C

Site Notice for additional notice under Part 19

**ADDITIONAL SITE NOTICE: APPLICATION TO AN BORD PLEANÁLA
FOR SUBSTITUTE CONSENT**Board's reference number of the application¹I,² have applied for substitute
consent for development at this
site.....³The development consists
of.....⁴

Additional information has been furnished to the Board in accordance with an invitation or requirement under section 177K(1C) of the Act [*delete as appropriate*].

The application is accompanied by a remedial Environmental Impact Assessment Report and remedial Natura impact statement [*delete as appropriate*].

Submissions or observations may be made on the application, to An Bord Pleanála, Marlborough Street, Dublin 1, without charge. Submissions or observations must be in writing and made within the period of 5 weeks beginning on the date of receipt by An Bord Pleanála of copies of the further newspaper and site notice and such submissions and observations will be considered by An Bord Pleanála in making a decision on the application.

An Bord Pleanála may grant the consent subject to or without conditions, or may refuse to grant it.

The application for consent, including additional information [*delete as appropriate*], may be inspected, or purchased at a fee not exceeding the reasonable cost of making a copy, at the offices of An Bord Pleanála, or the relevant planning authority during its public opening hours, and is available on the internet website of the An Bord Pleanála.

Signed.....⁵Date of erection of additional site
notice.....⁶**Directions for completing this notice**

1. Board's file reference number of the application.
2. The name of the applicant for substitute consent (and not her or his agent) should be inserted here.
3. The location, townland or postal address of the land or structure to which the application relates should be inserted here.

4. A brief description of the nature and extent of the development should be inserted here. The description should include –
 - (a) Where the application relates to development which consisted or comprised of the carrying out of works to a protected structure or proposed protected structure, an indication of that fact,
 - (b) Where the application relates to development which comprises or is for the purposes of an activity requiring an integrated pollution control licence or a waste licence, an indication of that fact, or
 - (c) Where an application relates to development consisting of the provisions of, or modifications to an establishment within the meaning of Part 11 of these Regulations (Major Accidents Directive), an indication of that fact.
5. Either the signature of the applicant or the signature and contact address of the person acting on behalf of the applicant should be inserted here.
6. The date that the notice is erected or fixed at the site should be inserted here.

GIVEN under my hand,
23 December 2020

PETER BURKE,
Minister of State at the Department of Housing, Local Government
and Heritage.

EXPLANATORY NOTE

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

These Regulations are made under sections 177N(1) and 262 of the Planning and Development Act 2000, as amended, and come into force on the date of signature. The purpose of these Regulations is to amend Part 19 of the Planning and Development Regulations 2001, as amended, to provide for matters of procedure and administration supplementary to Part XA of the Planning and Development Act 2000, as amended by sections 6, 7 and 8 of the Planning and Development, and Residential Tenancies, Act 2020 (the 2020 Act), related to additional public notification and consultation procedures for applications for substitute consent currently before An Bord Pleanála for decision upon commencement of the 2020 Act.

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