



STATUTORY INSTRUMENTS.

S.I. No. 214 of 2020

EUROPEAN UNION (WASTE WATER DISCHARGE) REGULATIONS
2020

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S.I. No. 214 of 2020

**EUROPEAN UNION (WASTE WATER DISCHARGE) REGULATIONS
2020**

I, EOGHAN MURPHY, Minister for Housing, Planning and Local Government, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purposes of giving further effect to Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011¹ on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014² amending Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment, hereby make the following regulations:

PART I
PRELIMINARY AND GENERAL MATTERS

Citation, collective citations and construction

1. (1) These Regulations may be cited as the European Union (Waste Water Discharge) Regulations 2020.

(2) Part II shall be included in the collective citation “Planning and Development Acts 2000 to 2020” and shall be construed together as one.

(3) The Waste Water Discharge (Authorisation) Regulations 2007 (S.I. No. 684 of 2007), the Waste Water Discharge (Authorisation) (Amendment) Regulations 2010 (S.I. No. 231 of 2010), the Waste Water Discharge (Authorisation) (Environmental Impact Assessment) Regulations 2016 (S.I. No. 652 of 2016) and these Regulations, other than Part II, may be collectively cited as the European Union (Waste Water Discharge) Regulations 2007 to 2020.

Commencement

2. These Regulations shall come into operation on 30 June 2020.

Interpretation

3. In these Regulations, save where the context otherwise requires, “principal Regulations” means the Waste Water Discharge (Authorisation) Regulations 2007 (S.I. No. 684 of 2007).

¹ OJ No. L 26, 28.1.2012, p. 1
² OJ No. L 124, 25.4.2014, p. 1

Repeals

4. Regulation 2, other than the definition of “principal Regulations”, and Regulations 3 and 4 of the Waste Water Discharge (Authorisation) (Environmental Impact Assessment) Regulations 2016 (S.I. No. 652 of 2016) are repealed.

PART II

AMENDMENT OF PLANNING AND DEVELOPMENT ACT 2000

Amendment of Planning and Development Act 2000

5. The Planning and Development Act 2000 is amended by the insertion of the following section:

“Environmental impact assessment relating to waste water discharges

- 173C** (1) Where a planning authority or the Board is considering an application for permission referred to in subparagraph (a) of paragraph (3A) (inserted by subparagraph (b) of Regulation 16 of the Regulations of 2020) of Regulation 16 of the Regulations of 2007, it shall, upon the request in writing of the person who made the application and not later than 3 working days from the date of the request, provide that person with –
- (a) the confirmation first-mentioned in the said subparagraph (a), and
 - (b) in circumstances where an environmental impact assessment in relation to the application is not required, the confirmation referred to in clause (ii) of the said subparagraph (a).
- (2) Where a planning authority or the Board grants a permission referred to in subparagraph (b) of paragraph (3A) of Regulation 16 of the Regulations of 2007 but did not require an environmental impact assessment in relation to the application for that permission, it shall, upon the request in writing of the person to whom the permission was granted and not later than 3 working days from the date of the request, provide that person with the confirmation referred to in clause (ii) of the said subparagraph (b).
- (3) (a) A planning authority shall comply with a request under subparagraph (a) of paragraph (6) (inserted by Regulation 22 of the Regulations of 2020) of Regulation 21 of the Regulations of 2007 within the period second-mentioned in that subparagraph.
- (b) The Board shall comply with a request under subparagraph (a) of paragraph (6) of Regulation 21 of the Regulations of 2007 within the period second-mentioned in that subparagraph.
- (4) (a) A planning authority shall comply with a request under subparagraph (a) of paragraph (7) of Regulation 21 of the Regulations of 2007 within the period second-mentioned in that subparagraph.
- (b) The Board shall comply with a request under subparagraph (a) of paragraph (7) of Regulation 21 of

the Regulations of 2007 within the period second-mentioned in that subparagraph.

- (5) (a) A planning authority shall comply with a request under subparagraph (a) of paragraph (8) of Regulation 21 of the Regulations of 2007 within the period specified in that subparagraph.
- (b) The Board shall comply with a request under subparagraph (a) of paragraph (8) of Regulation 21 of the Regulations of 2007 within the period specified in that subparagraph.

(6) Where a planning authority or the Board is considering an application for permission referred to in subparagraph (a) of paragraph (1) (inserted by Regulation 26 of the Regulations of 2020) of Regulation 24A of the Regulations of 2007, it shall, upon the request in writing of the person who made the application and not later than 3 working days from the date of the request, provide that person with –

- (a) the confirmation first-mentioned in the said subparagraph (a), and
- (b) in circumstances where an environmental impact assessment in relation to the application is not required, the confirmation second-mentioned in that subparagraph.

(7) Where a planning authority or the Board grants a permission referred to in subparagraph (b) of paragraph (1) of Regulation 24A of the Regulations of 2007 but did not require an environmental impact assessment in relation to the application for that permission, it shall, upon the request in writing of the person to whom the permission was granted and not later than 3 working days from the date of the request, provide that person with the confirmation referred to in that subparagraph.

(8) Where a planning authority or the Board is considering an application for permission in respect of development –

- (a) belonging to a class specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001, and
- (b) that in its opinion requires an authorisation under the Regulations of 2007,

it shall, for the purpose of making a determination as to whether or not an environmental impact assessment in relation to the application is required, invite the Environmental Protection Agency to make observations within such period as may be specified by the planning authority or the Board, as may be appropriate, in relation to the application, and the planning authority or the Board, as may be appropriate, shall take account of any such observations when making that determination.

(9) A person who –

- (a) makes an application for permission to a planning authority or the Board, and
 - (b) has made an application, or proposes to make an application, to the Agency for –
 - (i) a licence or review of a licence, or
 - (ii) a certificate or review of a certificate,
- under the Regulations of 2007 in connection with the application referred to in paragraph (a),

shall, when making the application referred to in paragraph (a), inform the planning authority concerned or the Board, as may be appropriate, in writing of his or her having so made the application referred to in paragraph (b) or his or her proposal to make such an application, as the case may be.

(10) In this section –

‘permission’ means –

- (a) permission under Part III,
- (b) approval for development under section 175, 177AE, 181B, 182B, 182D or 226, or
- (c) substitute consent under section 177K;

‘Regulations of 2007’ means the Waste Water Discharge (Authorisation) Regulations 2007 (S.I. No. 684 of 2007);

‘Regulations of 2020’ means the European Union (Waste Water Discharge) Regulations 2020.”.

PART III

AMENDMENT OF PRINCIPAL REGULATIONS

CHAPTER I

AMENDMENT OF PART I OF PRINCIPAL REGULATIONS

Amendment of Regulation 2 (Purpose of the Regulations)

6. Regulation 2 of the principal Regulations is amended by—
 - (a) in paragraph (1)—
 - (i) the deletion of “by giving effect to Article 6 of the Dangerous Substances Directive”,
 - (ii) in subparagraph (c), the substitution of “hazardous substances; and” for “hazardous substances;”,
 - (iii) in subparagraph (d), the substitution of “groundwater.” for “groundwater; and”, and
 - (iv) the deletion of subparagraph (e),
 - (b) the insertion of the following subparagraph after paragraph 3(b)—
“(ba) the Environmental Impact Assessment Directive^{4A};”, and
 - (c) the insertion of the following footnote—
“^{4A}Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ No. L 26, 28.1.2012), as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment (OJ No. L 124, 25.4.2014)”.

Substitution of Regulation 3 (Interpretation)

7. Regulation 3 of the principal Regulations is substituted by the following—

“Interpretation

3. (1) In these Regulations, any reference to a Schedule, Part, or Regulation which is not otherwise identified is a reference to a Schedule, Part, or Regulation of these Regulations.

(2) In these Regulations, any reference to a paragraph, subparagraph, clause or subclause which is not otherwise identified is a reference to a paragraph, subparagraph, clause or subclause of the provision in which the reference occurs.

(3) A letter, word, phrase or symbol which has been assigned a meaning by the Water Framework Directive, or is used in that Directive, has that meaning where the context requires except where otherwise indicated.

(4) In these Regulations, save where the context otherwise requires,—

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

“Agency” means the Environmental Protection Agency;

“agglomeration” means an area where the population or economic activities or both are sufficiently concentrated for a waste water works to have been put in place;

“application” means—

(a) in Parts III, IV and V an application by or on behalf of a water services authority for—

- (i) a licence or for the review of a licence,
- (ii) a licence or for the review of a licence pursuant to a notice under Regulation 24A(2)(a), 25(3)(c)(ii) or 25(5)(b)(ii)(II) to make such an application, or

- (iii) a licence or for the review of a licence where an EIAR is or was a requirement for a grant of permission comprising or for the purposes of the waste water discharge concerned,

and includes the furnishing of documentation and information to the Agency under Regulation 14(7)(a) or 18(6)(b),

(b) in Part VI an application by or on behalf of a water services authority for a certificate or for the review of a certificate which is not required to be considered as an application for a licence pursuant to a notice under Regulation 24A(2)(a), 25(3)(c)(ii) or 25(5)(b)(ii)(II) and includes the furnishing of documentation and information to the Agency under Regulation 24 or Regulation 25(3)(b), and

(c) in Parts II, VA, VII and VIII an application by or on behalf of a water services authority for a

licence or certificate or for the review of a licence or certificate;

“application for permission” means—

- (a) an application for permission for development under Part III of the Act of 2000,
- (b) an application for approval for development under section 175, 177AE, 181A, 182A, 182C or 226 of the Act of 2000, or
- (c) an application for substitute consent under section 177E of the Act of 2000;

“authorisation” means—

- (a) in the case of an agglomeration specified in column (1) of Schedule 2, and
- (b) where an application for a licence has been made in accordance with a notice under Regulation 25(3)(c)(ii) or 25(5)(b)(ii)(II),

a licence, and in all other cases, a certificate;

“authorised person” means a person who is appointed in writing by the Agency to be an authorised person for the purposes of Regulation 40;

“Birds Directive” has the meaning given to it by Regulation 2 of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011);

“body of groundwater” means a distinct volume of groundwater within an aquifer or aquifers;

“body of surface water” means a discrete and significant element of surface water such as a lake, reservoir, stream, river or canal, part of a stream, river or canal, a transitional water or a stretch of coastal water;

“certificate” means a certificate authorising a discharge by or on behalf of a water services authority from an agglomeration not specified in column (1) of Schedule 2 and in respect of which there has been no requirement to make an application for a licence in accordance with a notice under Regulation 25(3)(c)(ii) or 25(5)(b)(ii)(II);

“combined approach”, in relation to a waste water works, means the control of discharges and emissions to waters whereby the emission limits for the discharge are established on the basis of the stricter of either or both, the limits and controls required under the Urban Waste Water Regulations, and the limits determined under statute or Directive for the purpose of achieving the environmental objectives established for surface waters, groundwater or protected areas for the water body into which the discharge is made;

“confirmation notice” means the confirmation notice sent pursuant to article 97B(2) of the Regulations of 2001 following the entering onto the EIA portal of the information referred to in article 97A of those Regulations to which that notice relates;

“development” has the meaning assigned to it in the Act of 2000;

“development plan” means a development plan under section 9(1) of the Act of 2000;

“discharge point” means the point from which a waste water discharge occurs;

“domestic waste water” means waste water from residential settlements and services that originates predominantly from human metabolism and from household activities;

“ecological status” is an expression of the quality of the structure and functioning of aquatic ecosystems associated with surface waters, classified in accordance with the normative definitions of ecological status described in the Water Framework Directive and established by Regulations made by the Minister for the purpose of giving effect to the requirements of that Directive;

“EIA portal” means the website referred to in section 172A of the Act of 2000;

“EIAR” means an environmental impact assessment report of the effects, if any, which proposed development, if carried out, would have on the environment and shall include the information specified in Annex IV of the Environmental Impact Assessment Directive;

“environmental impact assessment” means a process—

(a) consisting of—

- (i) the preparation of an EIAR by the applicant in accordance with these Regulations,
- (ii) the carrying out of consultations in accordance with these Regulations,
- (iii) the examination by the Agency of—
 - (I) the information contained in the EIAR,
 - (II) any supplementary information provided, where necessary, by the applicant in accordance with Regulation 17B(1) and (2), and
 - (III) any relevant information received through the consultations carried out pursuant to clause (ii),

- (iv) the reasoned conclusion by the Agency on the significant effects on the environment of the proposed development, taking into account the results of the examination carried out pursuant to clause (iii) and, where appropriate, its own supplementary examination, and
 - (v) the integration of the reasoned conclusion of the Agency into the decision on the proposed development, and
- (b) which includes—
- (i) an examination, analysis and evaluation, carried out by the Agency in accordance with these Regulations, that identifies, describes and assesses, in an appropriate manner, in the light of each individual case, the direct and indirect significant effects of the proposed development on the following:
 - (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;
 - (V) the interaction between the factors mentioned in subclauses (I) to (IV), and
 - (ii) as regards the factors mentioned in clause (i)(I) to (V), such examination, analysis and evaluation of the expected direct and indirect significant effects on the environment derived from the vulnerability of the proposed development to risks of major accidents or disasters, or both major accidents and disasters, that are relevant to that development;

“Environmental Impact Assessment Directive” means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011³ on the assessment of the effects of certain public and private projects on the environment as amended by Directive 2014/52/EU of the

³

OJ No. L 26, 28.1.2012, p. 1

European Parliament and of the Council of 16 April 2014⁴ amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment;

“environmental medium” includes the atmosphere, land, soil and waters;

“Environmental Quality Standards Directive” means Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008⁵ on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council;

“environmental pollution” means, in relation to waste water discharges, the direct or indirect introduction, as a result of human activity, of waste water discharges, substances (including any explosive, liquid or gas) or polluting matter (including any poisonous or noxious matter) into waters which may endanger human health or harm the aquatic environment, and in particular—

- (a) create a risk to waters, sediment, plants or animals,
- (b) deleteriously interfere with the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems including by—
 - (i) rendering those or any other waters poisonous or injurious to fish, shellfish, spawning grounds or the food of any fish, or
 - (ii) impairing the usefulness of the bed and soil of any waters as spawning grounds or impairing their capacity to produce the food of fish or shellfish,
- (c) impair or interfere with amenities and other legitimate uses of the water, or
- (d) result in the water failing to meet any environmental quality standards prescribed in regulations for the purpose of giving effect to the requirements of any Directive relating to the quality or use of water for the time being in force;

⁴ OJ No. L 124, 25.4.2014, p. 1

⁵ OJ No. L 348, 24.12.2008, p. 84

“European Site” has the meaning given to it by Regulation 2 of the European Communities (Birds and Natural Habitats) Regulations (S.I. No. 477 of 2011);

“European Union” means European Union within the meaning of the European Communities Act 1972 (No. 27 of 1972);

“good ecological potential” means the status of a heavily modified or an artificial body of water, so classified in accordance with the relevant provisions of Annex V of the Water Framework Directive;

“good groundwater status” means the status achieved by a body of groundwater when both its quantitative status and its chemical status are at least ‘good’;

“good surface water chemical status” means the chemical status required to meet the environmental objectives for surface waters established in Article 4(1)(a) of the Water Framework Directive, that is the chemical status achieved by a body of surface water in which concentrations of pollutants do not exceed the environmental quality standards established in Annex IX and under Article 16(6) of the Water Framework Directive and under other relevant European Union legislation setting environmental quality standards at European Union level;

“good surface water status” means the status achieved by a surface water body when both its ecological status and its chemical status is at least ‘good’;

“grant of permission” means—

- (a) a grant of permission for development under Part III of the Act of 2000,
- (b) an approval for development under section 175, 177AE, 181B, 182B, 182D or 226 of the Act of 2000, or
- (c) a grant of substitute consent under section 177K of the Act of 2000;

“groundwater” means all water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil;

“Habitats Directive” has the meaning given to it by Regulation 2 of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011);

“hazardous substances” means substances or groups of substances that are toxic, persistent and liable to bio-accumulate and other substances that give rise to an equivalent level of concern;

“industrial waste water” means any waste water that is discharged from premises used for carrying on any trade or industry or other non-domestic use and excludes run-off rain water;

“licence” means a licence authorising a discharge by or on behalf of a water services authority from an agglomeration specified in column (1) of Schedule 2 and, where an application for a licence has been made in accordance with a notice under Regulation 25(3)(c)(ii) or 25(5)(b)(ii)(II), a licence authorising a discharge by or on behalf of a water services authority from an agglomeration not specified in column (1) of Schedule 2;

“local area plan” means a local area plan under section 18 of the Act of 2000;

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

“pollutant” means any substance liable to cause pollution, including those listed in Schedule 1 and, for the purpose of this definition, ‘substance’ includes bacteria and other pathogens, where relevant and the expression “polluting matter” shall be construed accordingly;

“population equivalent” is a measurement of organic biodegradable load and a population equivalent of 1 (1 p.e.) means the organic biodegradable load having a five-day biochemical oxygen demand (BOD₅) of 60g of oxygen per day; the load being calculated on the basis of the maximum average weekly load entering the waste water works during the year, excluding unusual situations such as those due to heavy rain;

“primary discharge point” means the discharge point with the largest volumetric flow;

“priority substances” means substances that have been prioritised for action by the setting of environmental quality standards at Community level and which have been identified in accordance with Article 16(2) of the Water Framework Directive and are listed in Annex X of that Directive, and among these substances there are “priority hazardous substances” which means substances identified in accordance with Article 16(3) and (6) for which measures have to be taken in accordance with Article 16(1) and (8); whereby priority substances and priority hazardous substances are listed in Tables 11 and 12, respectively, of Schedule 6 of the Surface Water Regulations;

“proposed development” means a proposal to carry out development to which Regulation 5(1) or (2) applies;

“protected areas” means areas designated as requiring special protection under specific European Union legislation for the protection of their surface water and groundwater or for the conservation of habitats and species of European sites directly dependant on water and listed in the register established by the Agency in accordance with Article 8 of the Water Policy Regulations;

“register”, except where used in the definition of ‘protected areas’, means the register established by the Agency under Regulation 36;

“Regulations of 2001” means the Planning and Development Regulations 2001 (S.I. No. 600 of 2001);

“river basin district” means an area as set out in the Second Schedule to the Water Policy Regulations;

“sensitive areas” has the meaning assigned to the term in the Urban Waste Water Regulations;

“storm water overflow” means a structure or device on a sewerage system designed and constructed for the purpose of relieving the system of excess flows that arise as a result of rain water or melting snow in the sewered catchment, the excess flow being discharged to receiving waters;

“surface water” means inland waters (except groundwater), transitional waters, coastal waters and, in respect of chemical status, territorial waters;

“Surface Waters Regulations” means the European Communities Environmental Objectives (Surface Waters) Regulations 2009 (S.I. No. 272 of 2009), as amended by the European Union Environmental Objectives (Surface Waters) (Amendment) Regulations 2015 (S.I. No. 386 of 2015) and the European Union Environmental Objectives (Surface Waters)(Amendment) Regulations 2019 (S.I. No. 77 of 2019);

“transboundary State” means any State, other than Ireland, which is a Member State of the European Communities or a party to the United Nations Economic Commission for Europe Convention on Environmental Impact Assessment in a Transboundary Context, done at Espoo (Finland), on 25 February 1991;

“Urban Waste Water Regulations” means the Urban Waste Water Treatment Regulations 2001 (S.I. No. 254 of 2001);

“Urban Waste Water Treatment Directive” means Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment⁶;

“waste water” means domestic waste water or the mixture of domestic waste water with industrial waste water;

“waste water discharge” means the discharge of a pollutant to water from a waste water works and includes indirect discharge after percolation through the ground or subsoil and discharges from storm water overflows and emergency overflows;

“waste water works” means sewers and their accessories (or any part thereof) and all other associated structural devices, including waste water treatment plants, which are owned by, vested in, controlled or used by a water services authority for the collection, storage, treatment or discharge of waste water;

“water” includes surface water and groundwater;

“Water Framework Directive” means Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy⁷;

“Water Policy Regulations” means the European Communities (Water Policy) Regulations 2003 (S.I. No. 722 of 2003);

“water services authority” means Irish Water or any authority performing the functions of a water services authority under the Water Services Acts 2007 to 2017.”.

CHAPTER II

AMENDMENT OF PART II OF PRINCIPAL REGULATIONS

Amendment of Regulation 5 (Duties on a water services authority)

8. Regulation 5 of the principal Regulations is amended by the insertion of the following paragraph after paragraph (1)—

“(1A) A water services authority shall make an application to the Agency for a licence authorising the waste water discharges from a waste water treatment works where any change or extension of development already authorised, executed or in the process of being executed would—

⁶ OJ No. L 135, 30.5.1991, p. 40

⁷ OJ No. L 327, 22.12.2000

- (i) result in the waste water treatment works servicing an agglomeration with a population equivalent exceeding 10,000, or
- (ii) result in the waste water treatment works servicing an agglomeration with a population equivalent higher than the population equivalent in respect of which a licence had been granted by the Agency.”.

Amendment of Regulation 6 (Duties on the Agency)

9. Regulation 6 of the principal Regulations is amended by—
 - (a) in paragraph (2), the deletion of subparagraph (a), and
 - (b) the insertion of the following paragraphs after paragraph (5)—
 - “(6) (a) Subparagraph (b) applies where an environmental impact assessment under these Regulations and an assessment pursuant to paragraph (5) are required to be carried out simultaneously in respect of the same discharge, or proposed discharge, as the case may be.
 - (b) The Agency shall coordinate the 2 assessments.
- (7) Where—
 - (a) a planning authority concerned or An Bord Pleanála gives notice to the Agency of an application for permission comprising or for the purposes of a waste water discharge requiring a licence pursuant to Regulation 5 or a review on the application of the licensee, under Regulation 14(1A), of a licence or a revised licence, and
 - (b) the application for permission is accompanied by an EIAR or in relation to which an EIAR was sought by the planning authority or An Bord Pleanála,

the Agency shall—

 - (i) satisfy itself that the development or proposed development the subject of the application for permission is development comprising or for the purposes of a waste water discharge requiring a licence or a revised licence pursuant to Regulation 5 or a review, on the application of the licensee under Regulation 14(1A) of a licence or a revised licence,
 - (ii) forward to the planning authority or An Bord Pleanála, as the case may be, such submissions as it has on the application for permission, including the EIAR, and
 - (iii) enter into such consultations with the planning authority or An Bord Pleanála in relation to the environmental impacts of the proposed development as the Agency, or planning authority or An Bord Pleanála,

as the case may be, considers necessary to enable completion of the environmental impact assessment for the development.”.

Amendment of Regulation 7 (Alternative objectives)

10. Regulation 7 of the principal Regulations is amended by—

- (a) in paragraph (3)(a), the substitution of “European Union” for “Community”; and
- (b) in paragraph (3)(b), the substitution of “European Union” for “Community”.

CHAPTER III

AMENDMENT OF PART III OF PRINCIPAL REGULATIONS

Amendment of Regulation 9 (Notice of intention to apply to the Agency for a licence or a review of a licence)

11. Regulation 9 of the principal Regulations is amended by—

- (a) in paragraph (a), the substitution of “relates,” for “relates, and”,
- (b) in paragraph (b), the substitution of “Regulation 11, and” for “Regulation 11.”, and
- (c) the insertion of the following paragraph after paragraph (b)—
 - “(c) where, under Regulation 17, the application is required to be accompanied by an environmental impact assessment report, provide the following information in electronic form to the EIA portal in the manner set out on the portal:
 - (i) the name of the applicant;
 - (ii) a contact name, email address and phone number for correspondence with the applicant or his or her agent;
 - (iii) the location of the proposed development in 256 characters or less;
 - (iv) a description of the proposed development in 256 characters or less;
 - (v) a statement that the application is to be made to the Agency;
 - (vi) a location map of sufficient size and containing details of features in the vicinity such as to permit the identification of the site to which the application

relates, to a scale (which shall be identified thereon) of not less than 1:1000 in built up areas and 1:2500 in all other areas, or other scale as may be agreed by the Minister in a particular case, and marked so as to identify clearly the land or structure to which the application relates and the boundaries thereof in red;

- (vii) an electronic copy of the newspaper notice, searchable by electronic means as far as practicable, inserted or to be inserted pursuant to paragraph (a).”.

Amendment of Regulation 10 (Notices in newspapers)

12. Regulation 10 of the principal Regulations is amended by—

- (a) the substitution in paragraph (c) of “environmental impact assessment report, confirmation that such a report” for “environmental impact statement, conformation that such a statement”,
- (b) the substitution of the following subparagraph for subparagraph (ii) of paragraph (d)—
 - “(ii) the environmental impact assessment report (where, under Regulation 17, the application is required to be accompanied by an EIAR), and”,
- (c) the substitution in paragraph (d) of—
 - (i) “purchase at a fee not exceeding the reasonable cost of making a copy” for “purchase”, and
 - (ii) “at the headquarters of the Agency, the principal office of the relevant water services authority and at the nearest public office of the relevant water services authority to the proposed development, and in the case where an EIAR is being furnished to the Agency, a statement that the environmental impact assessment report will be available on the Agency’s website for inspection,” for “at the headquarters of the Agency and at the principal office of the relevant water services authority,”, and
- (d) the substitution in paragraph (e) of “headquarters in writing within the period of 5 weeks beginning on the date of receipt by the Agency of the application,” for “headquarters.”.

Amendment of Regulation 11 (Site notices)

13. Regulation 11(d) of the principal Regulations is amended by the substitution of “5 weeks” for “1 month”.

Amendment of Regulation 14 (Review by the Agency of a licence)

14. Regulation 14 of the principal Regulations is amended by—

(a) the substitution of the following paragraph for paragraph (1)—

“(1) The Agency shall examine a licence at a time not exceeding 6 years from the date on which the licence or revised licence was granted, having regard, as appropriate, to

(a) the grounds for the review of a licence specified in paragraph (6), and

(b) the phased achievement of objectives provided for in Regulation 7,

and review that licence if necessary.

(1A) The Agency shall review a licence upon application in that behalf being made by the licensee.”,

(b) the substitution of the following paragraph for paragraph (3)—

“(3) Where the Agency proposes to review a licence under paragraph (1) or (2), it shall publish notice of such intention, either or both

(a) on its website for inspection, and

(b) in a newspaper circulating in the area where the waste water works is situated.”,

(c) the substitution of the following subparagraph for subparagraph (b) paragraph (4)—

“(b) state that a copy of documentation and information relating to the review, including any environmental impact assessment report required under Regulation 17, as may be furnished to the Agency, shall, as soon as is practicable after receipt by the Agency, be available for inspection or purchase at a fee not exceeding the reasonable cost of making a copy—

(i) at the headquarters of the Agency,

(ii) at the principal office of the relevant water services authority, and

(iii) at the nearest public office of the relevant water service authority to the proposed development,

and in the case where an EIAR is being furnished to the Agency, a statement that the environmental impact assessment report will be available on the Agency’s website for inspection, and”,

(d) the substitution in paragraph (4)(c) of “5 weeks from receipt of the fee, submissions, plans, documents and other information and particulars specified in paragraph (7)(a)” for “1 month from the date the notice is given or published”,

(e) the substitution in paragraph (6) of “paragraphs (1)(a) and (2)(a)” for “paragraph (2)(a)”,

- (f) the substitution in paragraph (6)(e) of “European Union” for “Community”, and
- (g) the substitution in paragraph (7)(b) of “5 weeks of receipt of the fee, submissions, plans, documents and other information and particulars specified in subparagraph (a)” for “1 month of the date of the giving of the notice”.

Amendment of principal Regulations – insertion of Regulations 14A and 14B

15. The principal Regulations are amended, by the insertion, in Part III, of the following Regulations after Regulation 14—

“Entry of information from applicant, etc., onto EIA portal

- 14A. (1) On receipt of information submitted pursuant to Regulation 9(c) or Regulation 18A(1)(b), the Minister shall satisfy himself or herself whether or not—
 - (a) the information provided is sufficient to identify—
 - (i) the name of the applicant,
 - (ii) the location and description of the proposed development, and
 - (iii) that the application is to be made to the Agency, and
 - (b) the copy of the newspaper notice concerned referred to in Regulation 9(c)(vii) or Regulation 18A(1)(b)(vii), as the case may be, is searchable by electronic means as far as practicable.
- (2) Where the Minister is so satisfied, he or she shall enter the information concerned referred to in Regulation 9(c) or Regulation 18A(1)(b), as the case may be, (other than the information referred to in Regulation 9(c)(ii) or Regulation 18A(1)(b)(ii), as the case may be) onto the EIA portal and send a confirmation notice by email to the email address provided for correspondence stating that he or she is so satisfied and that such information has been entered onto the portal.
- (3) Where the Minister is not so satisfied, he or she shall—
 - (a) not enter the information onto the EIA portal, and
 - (b) inform the applicant or his or her agent, as appropriate, at the email address provided for correspondence of the reasons why he or she is not so satisfied.

Entry of information of competent authority onto EIA portal

- 14B. On receipt of the information provided pursuant to Regulation 18(2)(b)(i) the Minister shall, within 3 working days, associate this

with the information entered onto the EIA portal pursuant to Regulation 14A(2).”.

CHAPTER IV

AMENDMENT OF PART IV OF PRINCIPAL REGULATIONS

Amendment of Regulation 16 (Details to be included in an application for a licence or for the review of a licence)

16. The principal Regulations are amended in Regulation 16 by—

(a) in paragraph (3), the insertion of the following subparagraph after subparagraph (b)—

“(ba) where the application is accompanied by an EIAR, a copy of the confirmation notice,”, and

(b) the insertion of the following paragraph after paragraph (3)—

“(3A) Where an application for a licence or the review of a licence is made to the Agency in respect of a waste water discharge that involves development or proposed development for which a grant of permission is required the applicant shall furnish to the Agency—

(a) confirmation in writing from a planning authority or An Bord Pleanála, as the case may be, that an application for permission comprising or for the purposes of the waste water discharge to which the application relates, is currently under consideration by the planning authority concerned or An Bord Pleanála, and in that case shall also furnish to the Agency either—

(i) a copy of the EIAR where one is required by or under the Act of 2000 relating to that application for permission, or

(ii) confirmation in writing from the planning authority or An Bord Pleanála that an environmental impact assessment is not required by or under the Act of 2000,

or

(b) a copy of a grant of permission comprising or for the purposes of the waste water discharge to which the application relates that was issued by the planning authority concerned or An Bord Pleanála and in that case shall also furnish to the Agency either—

(i) where the planning authority or An Bord Pleanála accepted or required the submission of an EIAR

- in relation to the application for permission, a copy of the EIAR, or
- (ii) confirmation in writing from the planning authority or An Bord Pleanála that an environmental impact assessment was not required by or under the Act of 2000.”.

Substitution of Regulation 17 (Certain applications to be accompanied by an environmental impact statement)

17. The principal Regulations are amended by substituting the following Regulation for Regulation 17—

“Certain applications to be accompanied by an EIAR

17. An application in respect of the waste water discharge from—

- (i) a waste water treatment plant with a capacity of greater than 10,000 population equivalent as defined in Article 2, point (6), of the Urban Waste Water Treatment Directive, and
- (ii) a waste water treatment plant specified in accordance with paragraph (6)(c) or (8)(b)(ii) of Regulation 18 or paragraph (3)(c) or (5)(b)(ii) of Regulation 25,

shall, subject to and in addition to compliance with the requirements of Regulation 16, be accompanied by a copy of an EIAR, which shall be submitted in electronic form (which shall be searchable by electronic means as far as practicable) and such other form as may be specified by the Agency.”.

Amendment of principal Regulations – insertion of Regulations 17A – 17D

18. The principal Regulations are amended, by the insertion, in Part IV, of the following Regulations after Regulation 17—

“Content of EIAR

17A. An EIAR shall be prepared by experts with the competence to ensure its completeness and quality, shall take into account the available results of other relevant assessments under European Union or national legislation with a view to avoiding duplication of assessments and shall contain—

- (a) the information specified in paragraph 1 of Schedule 6 to the Regulations of 2001,
- (b) any additional information specified in paragraph 2 of Schedule 6 to the Regulations of 2001 relevant to the specific characteristics of the development or type of development concerned and to the environmental features likely to be affected,
- (c) a summary in non-technical language of the information required under paragraphs (a) and (b),

- (d) a reference list detailing the sources used for the descriptions and assessments included in the report, and
- (e) a list of the experts who contributed to the preparation of the report, identifying for each such expert—
 - (i) the part or parts of the report which he or she is responsible for or to which he or she contributed,
 - (ii) his or her competence and experience, including relevant qualifications, if any, in relation to such parts, and
 - (iii) such additional information in relation to his or her expertise that the person or persons preparing the EIAR consider demonstrates the expert's competence in the preparation of the report and ensures its completeness and quality.

Adequacy of EIAR

17B (1) The Agency shall consider whether an EIAR submitted under Regulation 17—

- (a) identifies and describes adequately the direct and indirect significant effects on the environment of the proposed development,
- (b) complies with Regulation 17A, and
- (c) where the Agency has given a written opinion under Regulation 17D(4), complies with the said opinion.

(2) Where the Agency considers that the EIAR does not comply with a requirement of paragraph (1), it shall require the applicant to furnish, within a specified period, such further information as the Agency considers necessary to remedy such non-compliance.

(3) In addition to any requirement arising under paragraph (2), the Agency shall require the applicant, within such period as may be specified by the Agency, to take such steps or furnish such submissions, plans, documents or other information and particulars as the Agency considers necessary to enable it to carry out an environmental impact assessment.

(4) Where information required by the Agency under paragraphs (2) and (3) is not furnished by the applicant within the period specified, or any further period as may be specified by the Agency, the Agency may notify the applicant that the application cannot be considered by the Agency.

EIAR scoping request

17C. (1) (a) Subparagraph (b) applies where, before a water services authority submits an EIAR to the Agency, the authority

requests the Agency to give the authority an opinion in writing on the scope and level of detail of the information required to be included in the report.

- (b) Subject to subparagraph (c), the Agency shall, taking into account the information provided by the water services authority, in particular on the specific characteristics of the proposed waste water discharge, including its location and likely impact on the environment and the technical capacity of its associated waste water works, give an opinion in writing on the scope and level of detail of the information to be included in an EIAR, subject to consultations prescribed in Regulation 17D to be carried out by the Agency in relation to such opinion.
- (c) The Agency shall give the opinion before the submission by the water services authority of the EIAR.

(2) Where an opinion referred to in paragraph (1) has been provided, the EIAR 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.

Procedure for scoping requests

17D. (1) A request under Regulation 17C for a written opinion on the information to be contained in an EIAR shall state or provide, as the case may be—

- (a) the name and address, and telephone number and e-mail address if any, of the water services authority,
- (b) the location, townland or postal address of the land or structure to which the request relates (as may be appropriate), and shall include a location map marked so as to clearly identify—
 - (i) the land or structure to which the request relates and the boundaries thereof in red,
 - (ii) any land which adjoins, abuts or is adjacent to the land to be developed and which is under the control of the water services authority in blue, and
 - (iii) any wayleaves in yellow,
- (c) a description of—
 - (i) the nature of the proposed development,
 - (ii) the development's specific characteristics, including its location and technical capacity, and

- (iii) the development's likely impact on the environment.
- (2) (a) The Agency shall, as soon as may be after receiving a request under Regulation 17C for a written opinion—
- (i) give notice of having received the request to—
 - (I) the public authorities, persons and bodies listed in Regulation 21(1)(a) to (j),
 - (II) where in the opinion of the Agency the discharge to which the request relates would be likely to have significant effects on the environment in a transboundary State, such transboundary State, and
 - (III) such other public authority, person or body, if any, as the Agency considers necessary, having regard to the potential content and extent of the waste water discharge to which the request relates,
- indicating that a submission in relation to the information to be contained in the EIAR may be made to the Agency within 4 weeks beginning on the date of the notice, and
- (ii) notify the water services authority which made the request of the bodies to whom notice was given under clause (i) and advise that a submission in relation to the information to be contained in the EIAR may be made to the Agency within 4 weeks beginning on the date of the notice.
- (b) A notice given under clause (a)(i) shall contain the information referred to in paragraph (1) and, where appropriate, any further information provided under paragraph (3).
- (c) A notice under clauses (a)(i) and (ii) in respect of the same request shall be issued on the same date.
- (3) Where the Agency considers that it has insufficient information to enable it to give a written opinion pursuant to a request, it shall, by notice in writing, require the water services authority making the request to provide within a specified period such further information as it considers necessary.
- (4) The Agency shall, not later than 4 weeks after the expiry of the period referred to in paragraph (2)(a) or any period specified under paragraph (3), whichever is the later, give a written opinion to the water services authority which made the request pursuant to Regulation 17C.

(5) The Agency shall, in dealing with a request for a written opinion, have regard to—

- (a) Regulation 17A,
- (b) any information or documentation provided under paragraphs (1) and (3), and
- (c) any submission received in response to a notice under paragraph (2).

(6) A written opinion shall indicate the extent to which the information in paragraph 2 of Schedule 6 to the Regulations of 2001 should be contained in the EIAR.”.

Amendment of Regulation 18 (Procedure on receipt of an application)

19. Regulation 18 of the principal Regulations is amended—

- (a) by the substitution of the following paragraph for paragraph (2)—

“(2) Where the Agency considers that the requirements of Regulations 15 and 16 have been complied with in respect of an application, it shall—

 - (a) send to the applicant an acknowledgment of receipt of the application, and
 - (b) if the application was accompanied by an EIAR—
 - (i) send to the EIA portal in electronic form in the manner set out on the portal—
 - (I) a copy of the confirmation notice received in accordance with Regulation 16(3)(ba),
 - (II) the reference number of the application on the register, and
 - (III) the URL to the documents placed on its website pursuant to clause (ii), and
 - (ii) make the application, the EIAR, and information, submissions and notifications associated with or arising from consideration of the application, available for public inspection on its website.”,
- (b) by the insertion of the following paragraph after paragraph (3)—

“(3A) Where an application is made to the Agency in respect of a waste water discharge that involves development or proposed development for which a grant of permission is required but the applicant does not comply with Regulation 16(3A), the Agency shall refuse to consider the application and shall inform the applicant accordingly.” and
- (c) by the insertion of the following paragraphs after paragraph (4)—

“(5) Where an application in respect of a waste water discharge from a waste water treatment plant not specified in Regulation 17(i) is not accompanied by an EIAR, the Agency shall carry out a preliminary examination of, at the least, the nature, size or location of the development.

(6) Where the Agency concludes, based on such preliminary examination, that—

- (a) there is no real likelihood of significant effects on the environment arising from the proposed development, it shall conclude that an EIA is not required,
- (b) there is significant and realistic doubt in regard to the likelihood of significant effects on the environment arising from the proposed development, it shall, by notice in writing served on the water services authority, require the authority to submit to the Agency the information specified in Schedule 7A to the Regulations of 2001 for the purposes of a screening determination unless the authority has already provided such information, or
- (c) there is a real likelihood of significant effects on the environment arising from the proposed development, it shall—
 - (i) conclude that the development would be likely to have such effects, and
 - (ii) by notice in writing served on the water services authority, require the authority to submit to the Agency, within such period, if any, as is specified in such notice, an EIAR and to comply with the requirements of Regulation 18A.

- (7) (a) Where a water services authority is submitting to the Agency the information specified in Schedule 7A to the Regulations of 2001, the information shall be accompanied by any further relevant information on the characteristics of the proposed development and its likely significant effects on the environment, including, where relevant, information on how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account.
- (b) Where a water services authority is submitting to the Agency the information specified in Schedule 7A to the Regulations of 2001, the information may be accompanied by a description of the features, if any, of the proposed development and the measures, if any, envisaged to avoid or prevent what might otherwise

have been significant adverse effects on the environment of the development.

- (8) (a) Where an application in respect of a waste water discharge from a waste water treatment plant not specified in Regulation 17(i) is not accompanied by an EIAR, but is accompanied by the information specified in Schedule 7A to the Regulations of 2001 and paragraph (7), or where a water services authority submits to the Agency such information pursuant to a requirement issued under paragraph (6)(b), the Agency shall carry out an examination of, at the least, the nature, size or location of the development for the purposes of a screening determination.
- (b) The Agency shall make a screening determination and—
- (i) if such determination is that there is no real likelihood of significant effects on the environment arising from the proposed development, it shall determine that an EIA is not required, or
 - (ii) if such determination is that there is a real likelihood of significant effects on the environment arising from the proposed development, it shall—
 - (I) determine that the development would be likely to have such effects, and
 - (II) by notice in writing served on the water services authority, require the authority to submit to the Agency, within such period, if any, as is specified in such notice, an EIAR and to comply with the requirements of Regulation 18A.
- (9) (a) Subject to subparagraph (b), any conclusion under paragraph (6)(b) or (c) on a preliminary examination, or a screening determination under paragraph (8)(b)(ii), shall be notified by the Agency to the water services authority within 8 weeks of receipt of the information specified in Schedule 7A to the Regulations of 2001.
- (b) Subject to subparagraph (c), the Agency shall not be required to comply with subparagraph (a) within the period specified in subparagraph (a) where it appears to the Agency that it would not be possible or appropriate, because of the exceptional circumstances of the proposed development (including in relation to the nature, complexity, location or size of such development) to do so.

- (c) Where subparagraph (b) applies, the Agency shall, by notice in writing served on the water services authority before the expiration of the period referred to in subparagraph (a), inform the authority of the reasons why it would not be possible or appropriate to comply with subparagraph (a) within that period and shall specify the date before which the Agency intends that the conclusion or screening determination concerned, as the case may be, shall be reached or made, as the case may be.
- (10) (a) The Agency shall, in making its screening determination under paragraph (8)(b) whether there is no real likelihood of significant effects on the environment arising from a proposed development or there is a real likelihood of significant effects on the environment arising from a proposed development, have regard to—
- (i) the criteria set out in Schedule 7 to the Regulations of 2001,
 - (ii) the information submitted pursuant to Schedule 7A to the Regulations of 2001,
 - (iii) the further relevant information, if any, referred to in paragraph (7)(a) and the description, if any, referred to in paragraph (7)(b),
 - (iv) the environmental objectives of the river basin management plans established under the European Communities (Water Policies) Regulations 2003 (S.I. No. 722 of 2003),
 - (v) the classification of bathing waters and bathing water quality status to be achieved in accordance with the Bathing Water Quality Regulations (S.I. No. 79 of 2008), as amended by the Bathing Water Quality (Amendment) Regulations (S.I. No. 351 of 2011) and the Bathing Water Quality (Amendment) Regulations (S.I. No. 163 of 2016),
 - (vi) the programmes of actions made pursuant to the European Communities (Quality of Shellfish Waters) Regulations (S.I. No. 268 of 2006), as amended by the European Communities (Quality of Shellfish Waters) (Amendment) Regulations (S.I. No. 55 of 2009) and the European Communities (Quality of Shellfish Waters) (Amendment) (No. 2) Regulations (S.I. No. 464 of 2009),
 - (vii) the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to

European Union legislation other than the Environmental Impact Assessment Directive, and

- (viii) in respect of a development which would be located on, or in, or have the potential to impact on—
 - (I) a European site,
 - (II) an area the subject of a notice under section 16(2)(b) of the Wildlife (Amendment) Act 2000 (No. 38 of 2000),
 - (III) an area designated as a natural heritage area under section 18 of the Wildlife (Amendment) Act 2000,
 - (IV) land established or recognised as a nature reserve within the meaning of section 15 or 16 of the Wildlife Act 1976 (No. 39 of 1976),
 - (V) land designated as a refuge for flora or as a refuge for fauna under section 17 of the Wildlife Act 1976,
 - (VI) a place, site or feature of ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan, draft development plan or draft local area plan, or proposed variation of a development plan, for the area in which the development is proposed, or
 - (VII) a place or site which has been included by the Minister for Culture, Heritage and the Gaeltacht in a list of proposed Natural Heritage Areas published on the National Parks and Wildlife Service website,

the likely significant effects of the development on such site, area, land, place or feature, as appropriate.

- (b) The Agency's screening determination under paragraph (8)(b) whether there is no real likelihood of significant effects on the environment arising from a proposed development or there is a real likelihood of significant effects on the environment arising from a proposed development, as the case may be, including the main reasons and considerations, with reference to the relevant criteria listed in Schedule 7 to the Regulations of 2001, on which that determination is based, and any notice under paragraph (9)(c), shall be placed and kept with the documents relating to the application.

(11) Where the screening determination under paragraph (8)(b) is that the proposed development would not be likely to have significant effects on the environment and the water services authority has provided, under paragraph (7)(b), a description of the features, if any, of the development and the measures, if any, envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment of the development, the Agency shall specify such features, if any, and such measures, if any, in that determination.

(12) The Agency shall, in respect of its conclusion under paragraph (6)(a) or its screening determination under paragraph (8)(b)(i), as appropriate, and the description referred to in paragraph (11)—

- (a) make that conclusion or screening determination, as appropriate, and that description available for inspection or purchase at a fee not exceeding the reasonable cost of making a copy during office hours—
 - (i) at the headquarters of the Agency,
 - (ii) at the principal office of the relevant water services authority, and
 - (iii) at the nearest public office of the relevant water service authority to the proposed development, and

- (b) publish that conclusion or screening determination, as appropriate and that description for inspection on its website within 3 working days of making that conclusion or screening determination, as appropriate.”.

Amendment of principal Regulations - insertion of Regulation 18A

20. The principal Regulations are amended, by the insertion, in Part IV, of the following Regulation after Regulation 18—

“Further notice where Agency requires EIAR

18A. (1) Where an EIAR is required under Regulation 18, the applicant shall, within the period of 2 weeks before submitting the EIAR—

- (a) publish in a newspaper circulating in the area in which the discharge takes place or is to take place a notice of—
 - (i) the intention to submit the EIAR, and
 - (ii) the location of the discharge to which the application relates, and

- (b) provide the following information in electronic form to the EIA portal in the manner set out on the portal—
- (i) the name of the applicant;
 - (ii) a contact name, email address and phone number for correspondence with the applicant or his or her agent;
 - (iii) the location of the proposed development in 256 characters or less;
 - (iv) a description of the proposed development in 256 characters or less;
 - (v) a statement that the EIAR is to be provided to the Agency;
 - (vi) a location map of sufficient size and containing details of features in the vicinity such as to permit the identification of the site to which the application relates, to a scale (which shall be identified thereon) of not less than 1:1000 in built up areas and 1:2500 in all other areas, or other scale as may be agreed by the Minister in a particular case, and marked so as to identify clearly the land or structure to which the application relates and the boundaries thereof in red;
 - (vii) an electronic copy of the newspaper notice, searchable by electronic means as far as practicable, inserted or to be inserted pursuant to paragraph (a).

(2) A notice published in a newspaper pursuant to paragraph (1) shall contain as a heading the words “APPLICATION TO THE ENVIRONMENTAL PROTECTION AGENCY FOR A WASTE WATER DISCHARGE LICENCE” or “APPLICATION TO THE ENVIRONMENTAL PROTECTION AGENCY FOR THE REVIEW OF A WASTE WATER DISCHARGE LICENCE”, as the case may be, and shall contain the following information—

- (a) the name and address of the applicant,
- (b) the location or postal address (including, where appropriate, the name of the townland or townlands) and description of the waste water works, the location of discharges to which the application relates and the National Grid reference of the location of any associated waste water treatment plant,
- (c) the date of the application for a licence or a review of a licence, as the case may be, to the Agency and its reference number in the register,

- (d) that following a requirement of the Agency, an environmental impact assessment report will be submitted to the Agency in connection with the application,
 - (e) a statement that a copy, in such a format as may be determined by the Agency, of—
 - (i) the application for a waste water discharge licence or for the review of a waste water discharge licence, as the case may be,
 - (ii) the environmental impact assessment report, and
 - (iii) such further information relating to the application as may be furnished to the Agency in the course of the Agency's consideration of the application,
- shall, as soon as is practicable after receipt by the Agency, be available for inspection on the website of the Agency and be available for inspection or purchase at a fee not exceeding the reasonable cost of making a copy—
- (I) at the headquarters of the Agency,
 - (II) at the principal office of the relevant water services authority, and
 - (III) at the nearest public office of the relevant water services authority to the proposed development,
- (f) a statement that submissions in relation to the application may be made to the Agency at its headquarters in writing within the period of 5 weeks beginning on the date of receipt by the Agency of the environmental impact assessment report.”.

CHAPTER V

AMENDMENT OF PART V OF PRINCIPAL REGULATIONS

Amendment of Regulation 19 (Submissions to the Agency regarding applications)

21. Regulation 19 of the principal Regulations is amended—

- (a) in paragraph (b) by—

- (i) the substitution of “EIAR” for “environmental impact statement”, and
- (ii) the substitution of “18(3)(b), 18(6)(c)(ii), 18(8)(b)(ii)(II), and 20” for “18(3)(b) and 20”, and
- (b) by the substitution of “5 weeks” for “1 month”.

Amendment of Regulation 21 (Notice to certain public bodies and authorities)

22. Regulation 21 of the principal Regulations is amended—

- (a) in paragraph (1), by the deletion of subparagraph (i), and
- (b) by the insertion of the following paragraphs after paragraph (2)—

“(3) Where an application for a licence or for the review of a licence is accompanied by an EIAR, the notice given in accordance with paragraph (1) shall indicate that fact and shall state that the EIAR shall be made available to that public authority, person or body on request and the Agency shall comply with any such request as soon as possible.

(4) Where the Agency receives an EIAR pursuant to a notice under Regulation 18(6)(c)(ii) or 18(8)(b)(ii)(II), it shall, as soon as may be following receipt of the EIAR, notify—

(a) the public authorities, persons or bodies prescribed in paragraph (1) indicating that a copy of the EIAR is available for inspection on the website of the Agency and will be made available to the public authority, person or body on request and that a submission in relation to the EIAR may be made in writing to the Agency within 5 weeks of the date of receipt by the Agency of the EIAR and the Agency shall comply as soon as possible with any request for an EIAR under this subparagraph, and

(b) any person who made a submission or observation in relation to the application in accordance with Regulation 19, indicating—

(i) that the EIAR is available for inspection on the website of the Agency and for inspection or purchase at a fee not exceeding the reasonable cost of making a copy during office hours—

(I) at the headquarters of the Agency,

(II) at the principal office of the relevant water services authority, and

(III) at the nearest public office of the relevant water services authority to the proposed development, and

(ii) that a submission or observation in relation to the EIAR may be made in writing to the Agency within 5 weeks of the date of receipt by the Agency of the EIAR.

(5) Where a public authority, person or body to whom notice is sent pursuant to paragraph (1) does not make a submission in relation to the application before the expiry of the period of 5 weeks specified in Regulation 19, the Agency may determine the application without further notice to that public authority, person or body.

(6) The Agency, on receipt of an application where an EIAR is required pursuant to Regulation 16(3A)(a)(i), shall—

- (a) within 2 weeks of the date of receipt of such application notify the planning authority in whose functional area the waste water discharge is or will be situate or An Bord Pleanála, as the case may be, that it has received an application to which Regulation 16(3A)(a)(i) applies and request the planning authority or An Bord Pleanála to respond to the Agency within 4 weeks of receipt of the notice and make any submissions that the planning authority or An Bord Pleanála has in relation to the application for a licence,
- (b) consider any submissions made to the Agency by the planning authority or An Bord Pleanála following a request under subparagraph (a) before making its decision under Regulation 28(1),
- (c) enter into consultations, as the Agency considers appropriate, with the planning authority or An Bord Pleanála in relation to any environmental impacts of the proposed development comprising or for the purposes of the waste water discharge to which the application relates,
- (d) ensure that a grant of permission has been made or a decision has been made to refuse a grant of permission for development comprising or for the purposes of the waste water discharge to which the application relates and the period for any appeal under section 37 of the Act of 2000 has expired without an appeal being made before making its decision under Regulation 28(1).

(7) The Agency, on receipt of an application where an EIAR is required pursuant to Regulation 16(3A)(b)(i), shall—

- (a) within 2 weeks of the date of receipt of such application notify the planning authority in whose functional area the waste water discharge is or will be situate or An Bord Pleanála, as the case may be, that it has received

an application to which Regulation 16(3A)(b)(i) applies and request the planning authority or An Bord Pleanála to respond to the Agency within 4 weeks of receipt of the notice—

- (i) stating whether the waste water discharge to which the application for a licence relates is permitted by the grant of permission referred to in Regulation 16(3A)(b), and
 - (ii) furnishing all documents relating to the environmental impact assessment carried out by the planning authority or An Bord Pleanála in respect of the development or proposed development to which the grant of permission referred to in Regulation 16(3A)(b) refers and any submissions that the planning authority or An Bord Pleanála wishes to make in relation to the application for a licence,
 - (b) consider any submissions made to the Agency by the planning authority or An Bord Pleanála following a request under subparagraph (a) before making its decision under Regulation 28(1),
 - (c) enter into consultations, as the Agency considers appropriate, with the planning authority or An Bord Pleanála in relation to any environmental impacts of the proposed development or development in being, as the case may be, comprising or for the purposes of the waste water discharge to which the application for a licence relates.
- (8) Where the Agency receives an EIAR pursuant to a notice under Regulation 18(6)(c)(ii) or 18(8)(b)(ii)(II), the Agency shall do the following—
- (a) as soon as may be following receipt of the EIAR, notify the planning authority in whose functional area the activity is or will be situate that it has received an application to which this paragraph applies and request the planning authority concerned to respond to the Agency within 5 weeks of the date of the notice and furnish any submissions that the planning authority wishes to make in relation to the application for a licence including the EIAR,
 - (b) consider any submissions furnished to the Agency following a request under subparagraph (a) by the planning authority before making its decision under Regulation 28(1), and
 - (c) enter into consultations, as the Agency considers appropriate, with the planning authority in relation to

any environmental impacts of the proposed activity to which the application for a licence relates,

- (d) where a grant of permission is required for development comprising or for the purposes of the waste water discharge to which the application relates, ensure that a grant of permission has been made or a decision has been made to refuse a grant of permission for such development and the period for any appeal under section 37 of the Act of 2000 has expired without an appeal being made before making its decision under Regulation 28(1).”.

Substitution of Regulation 22 (Matters in an environmental impact statement to which the Agency shall have regard)

23. The principal Regulations are amended by substituting the following Regulation for Regulation 22—

“Matters in an environmental impact assessment report to which the Agency shall have regard

22. (1) The Agency shall have regard to the matters mentioned in an EIAR in respect of a development only in so far as they relate to the risk of environmental pollution of the receiving waters from the waste water discharge concerned.

(2) In carrying out an environmental impact assessment under these Regulations, the Agency shall consider the environmental impact assessment report, any further information furnished to the Agency under Regulation 17B(2) or (3), the views, if any, provided by a transboundary State under Regulation 23A and any submissions validly made in relation to the environmental effects of the proposed development.

(3) When making a decision on an application for a licence or for a review of a licence, the Agency shall have regard to the findings of any environmental impact assessment carried out under these Regulations.”.

Amendment of principal Regulations – insertion of Regulations 22A and 22B

24. The principal Regulations are amended, by the insertion, in Part V, of the following Regulations after Regulation 22—

“Carrying out of environmental impact assessment in consultation with planning authority or An Bord Pleanála

22A. (1) The environmental impact assessment required to be carried out by the Agency under these Regulations where an application for a licence is in respect of a waste water discharge that involves development or proposed development that is the subject of an environmental impact assessment by the planning authority concerned or An Bord Pleanála under the Act of 2000, may be carried out by the Agency in part or in

whole by way of consultation with, or the submission of observations to, that planning authority or An Bord Pleanála.

(2) Where an application for permission relates to development or proposed development comprising or for the purposes of a waste water discharge in respect of which a licence under this Part is required—

- (a) in relation to which a grant of permission is required, which development is of a class prescribed by regulations made under section 176 of the Act of 2000 but does not equal or exceed, as the case may be, a quantity, area or limit prescribed under those regulations, and
- (b) in respect of which, the planning authority concerned or An Bord Pleanála is obliged under the Act of 2000 to make a determination whether an environmental impact assessment is required,

the Agency shall, when requested by the planning authority concerned or An Bord Pleanála, consult with or provide observations to the planning authority or An Bord Pleanála to assist the planning authority or An Bord Pleanála in its deliberations in relation to the determination referred to in subparagraph (a) and shall accept the determination of the planning authority or An Bord Pleanála so made.

Access to expertise to examine EIAR

22B. The Agency shall ensure it has, or has access as necessary to, sufficient expertise to examine the EIAR to ensure its completeness and quality.”.

CHAPTER VI

AMENDMENT OF PRINCIPAL REGULATIONS – INSERTION OF PART VA

Insertion of Part VA

25. The principal Regulations are amended by inserting the following Part after Part V—

“Part VA

TRANSBOUNDARY ENVIRONMENTAL EFFECTS

Transboundary consultation

23A. (1) Where, in the opinion of the Agency, the discharge to which the application relates would be likely to have significant effects on the environment in a transboundary State, the Agency shall notify the transboundary State concerned of the application, as soon as may be after its receipt.

(2) Where a transboundary State considers that a discharge the subject of an application would be likely to have significant effects on the environment in that State, the Agency shall enter into consultations with such State in relation to the potential transboundary effects of the proposed development upon request by such State.

Notification by Minister of transboundary consultation request

23B. Where a transboundary State has informed the Minister that it considers that the discharge the subject of an application would be likely to have significant effects on the environment in that State, the Minister shall notify the Agency for the purposes of Regulation 23A(2).

Provision of information to transboundary State

23C. (1) The notification for the purposes of Regulation 23A(1) and the response to the request for consultations under Regulation 23(2) shall state or include, as the case may be,—

- (a) the name and address of the applicant,
- (b) the date of receipt of the application,
- (c) the information provided to the Agency in accordance with Regulation 16(1)(b) to (n) or Regulation 24(b) to (o),

- (d) a description of the proposed development, together with any available information on the possible transboundary impact of the proposed development,
- (e) where an EIAR has been provided, a copy of the EIAR and—
 - (i) an indication that the development is subject to an environmental impact assessment procedure,
 - (ii) an indication that the Agency is the competent authority for taking the decision on the application,
 - (iii) an indication of the types of decision the Agency may make in relation to the application,
 - (iv) an indication that a decision on the proposed development will not be taken until the views, if any, of the transboundary State have been received or the consultations are otherwise completed, and
 - (v) the URL to the EIAR on the Agency's website.

(2) Where the Agency has provided information and entered into consultation with a transboundary State, the Agency shall notify the applicant of that fact.

Request for further information

23D. (1) In the case of an application to which this Part applies, the Agency may, having regard to the views of a transboundary State, and notwithstanding Regulation 28(1), require an applicant to submit further information in respect of the application, and the provisions of Regulation 20 (other than the time periods specified) shall apply to such requirement.

(2) Where the Agency considers that further information submitted under paragraph (1) contains significant additional data on the effects on the environment of the proposed development, it shall as soon as may be following receipt of the further information—

- (a) send notice of, and a copy of, the further information received by the Agency to—
 - (i) any person or body specified in Regulation 21(1), indicating that a submission on the further information may be made in writing to the Agency within 5 weeks of the date of the notice, and
 - (ii) any relevant transboundary State,
- (b) notify any person who made a submission in relation to the application in accordance with Regulation 19 indicating that the further information is available for

- inspection on the website of the Agency and, for inspection or purchase, at a fee not exceeding the reasonable cost of making a copy, during office hours at the offices of the Agency, and that a submission on the further information may be made in writing to the Agency within 5 weeks of the date of the notice,
- (c) require the applicant to publish in a newspaper, circulating in the area in which the discharge takes place or is to take place, a notice, containing as a heading the name of the Agency and marked “Effects on the Environment - Further Information”, stating—
 - (i) the name of the applicant,
 - (ii) the location or postal address (including, where appropriate, the name of the townland or townlands) and description of the waste water works, the location of discharges to which the application relates and the National Grid reference of the location of any associated waste water treatment plant,
 - (iii) the reference number of the application in the register,
 - (iv) that significant further information in relation to the application has been furnished to the Agency,
 - (v) that the further information is available for inspection on the website of the Agency, and for inspection or purchase at a fee not exceeding the reasonable cost of making a copy during office hours at the offices of the Agency, and that a submission in relation to the further information may be made in writing to the Agency within a specified period.
- (3) Where the Agency considers that the notice published in accordance with paragraph (2)(c) does not adequately inform the public, the Agency may require the applicant to give such further notice in such a manner and in such terms as the Agency may specify.

Notice of further information to transboundary State

23E. Where the Agency considers that further information submitted in response to a request under Regulation 20, in respect of an application to which this Part applies, contains significant additional data on the effects on the environment of the proposed development, it shall send a copy of the information to any relevant transboundary State.

Minimum period for determining application

23F. The Agency shall, notwithstanding Regulation 28(1), not make a decision on an application to which this Part applies until after—

- (a) the views, if any, of any relevant transboundary State have been received in response to consultations under this Part, or
- (b) the consultations are otherwise completed.

Notice of decision

23G. A notice under Regulation 28(1) shall, in respect of an application to which this Part applies, be sent to any relevant transboundary State.

Information to Minister on operation of this Part

23H. (1) The Agency shall, as soon as may be after the end of each financial year, but not later than 6 months thereafter, report to the Minister on the operation of this Part.

(2) The Agency shall supply the Minister with such information relating to the operation of this Part, in general or in relation to any individual case, as he or she shall from time to time request arising from any obligation to a transboundary State.”.

CHAPTER VII

AMENDMENT OF PART VI OF PRINCIPAL REGULATIONS

Amendment of principal Regulations – insertion of Regulation 24A

26. The principal Regulations are amended, by the insertion, in Part VI, of the following Regulation after Regulation 24—

“Information on planning application or grant of planning permission

24A (1) Where an application for a certificate or the review of a certificate is made to the Agency in respect of a waste water discharge that involves development or proposed development for which a grant of permission is required the applicant shall furnish to the Agency—

- (a) confirmation in writing from a planning authority or An Bord Pleanála, as the case may be, that an application for permission comprising or for the purposes of the waste water discharge to which the application relates is currently under consideration by the planning authority concerned or An Bord Pleanála, and confirmation in writing from the planning authority or An Bord Pleanála that an environmental impact assessment is not required by or under the Act of 2000, or
- (b) a copy of a grant of permission comprising or for the purposes of the waste water discharge to which the application relates that was issued by the planning authority concerned or An Bord Pleanála and confirmation in writing from the planning authority or An Bord Pleanála that an environmental impact assessment was not required by or under the Act of 2000.

(2) Where the confirmation specified in paragraph (1)(a) or (b) cannot be provided by reason of a requirement by a planning authority or An Bord Pleanála, as the case may be, for an environmental impact assessment, the Agency shall—

- (a) by notice in writing served on the water services authority, inform the authority that the Agency will not make a decision on the application under this Part and require the authority to submit to the Agency, within such period, if any, as is specified in such notice, an application for a licence in accordance with Part IV which shall be accompanied by an EIAR, and
- (b) refund the fee paid in accordance with Regulation 39.

(3) Where an application is made to the Agency in respect of a waste water discharge that involves development or proposed development for which a grant of permission is required but the applicant does not comply with Regulation 24A(1), the Agency shall refuse to consider the application and shall inform the applicant accordingly.”.

Substitution of Regulation 25 (Procedure on receipt of application)

27. The principal Regulations are amended by substituting the following Regulation for Regulation 25—

“25. (1) On receipt of an application, or further documentation relating to an application, the Agency shall—

- (a) stamp the application with the date of receipt,
- (b) assign a reference number to the application, and
- (c) issue to the applicant—
 - (i) a written acknowledgment of its receipt if the Agency is satisfied that the requirements of Regulation 24 have been complied with, or
 - (ii) notice in writing of the remaining requirements that must be satisfied within such period as is specified by the Agency.

(2) Where an application in respect of a waste water discharge from a waste water treatment plant not specified in Regulation 17(i) is not accompanied by an EIAR, the Agency shall carry out a preliminary examination of, at the least, the nature, size or location of the development.

(3) Where the Agency concludes, based on such preliminary examination, that—

- (a) there is no real likelihood of significant effects on the environment arising from the proposed development, it shall conclude that an EIA is not required,
- (b) there is significant and realistic doubt in regard to the likelihood of significant effects on the environment arising from the proposed development, it shall, by notice in writing served on the water services authority, require the authority to submit to the Agency the information specified in Schedule 7A to the Regulations of 2001 for the purposes of a screening determination unless the authority has already provided such information, or
- (c) there is a real likelihood of significant effects on the environment arising from the proposed development, it shall—
 - (i) conclude that the development would be likely to have such effects,

- (ii) by notice in writing served on the water services authority, inform the authority that the Agency will not make a decision on the application under this Part and require the authority to submit to the Agency, within such period, if any, as is specified in such notice, an application for a licence in accordance with Part IV which shall be accompanied by an EIAR, and
 - (iii) refund the fee paid in accordance with Regulation 39.
- (4) (a) Where a water services authority is submitting to the Agency the information specified in Schedule 7A to the Regulations of 2001, the information shall be accompanied by any further relevant information on the characteristics of the proposed development and its likely significant effects on the environment, including, where relevant, information on how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account.
- (b) Where a water services authority is submitting to the Agency the information specified in Schedule 7A to the Regulations of 2001, the information may be accompanied by a description of the features, if any, of the proposed development and the measures, if any, envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment of the development.
- (5) (a) Where an application in respect of a waste water discharge from a waste water treatment plant not specified in Regulation 17(i) is not accompanied by an EIAR, but is accompanied by the information specified in Schedule 7A to the Regulations of 2001 and paragraph (4), or where a water services authority submits to the Agency such information pursuant to a requirement issued under paragraph (3)(b), the Agency shall carry out an examination of, at the least, the nature, size or location of the development for the purposes of a screening determination.
- (b) The Agency shall make a screening determination and—
- (i) if such determination is that there is no real likelihood of significant effects on the environment arising from the proposed development, it shall determine that an EIA is not required, or

- (ii) if such determination is that there is a real likelihood of significant effects on the environment arising from the proposed development, it shall—
 - (I) determine that the development would be likely to have such effects,
 - (II) by notice in writing served on the water services authority, inform the authority that the Agency will not make a decision on the application under this Part and require the authority to submit to the Agency, within such period, if any, as is specified in such notice, an application for a licence in accordance with Part IV which shall be accompanied by an EIAR, and
 - (III) refund the fee paid in accordance with Regulation 39.
- (6) (a) Subject to subparagraph (b), any conclusion under paragraph (3)(b) or (c) on a preliminary examination, or a screening determination under paragraph (5)(b)(ii), shall be notified by the Agency to the water services authority within 8 weeks of receipt of the information specified in Schedule 7A to the Regulations of 2001.
 - (b) Subject to subparagraph (c), the Agency shall not be required to comply with subparagraph (a) within the period specified in subparagraph (a) where it appears to the Agency that it would not be possible or appropriate, because of the exceptional circumstances of the proposed development (including in relation to the nature, complexity, location or size of such development) to do so.
 - (c) Where subparagraph (b) applies, the Agency shall, by notice in writing served on the water services authority before the expiration of the period referred to in subparagraph (a), inform the authority of the reasons why it would not be possible or appropriate to comply with subparagraph (a) within that period and shall specify the date before which the Agency intends that the conclusion or screening determination concerned, as the case may be, shall be reached or made, as the case may be.
- (7) (a) The Agency shall, in making its screening determination under paragraph (5)(b) whether there is no real likelihood of significant effects on the environment arising from a proposed development or there is a real likelihood of significant effects on the

environment arising from a proposed development, have regard to—

- (i) the criteria set out in Schedule 7 to the Regulations of 2001,
- (ii) the information submitted pursuant to Schedule 7A to the Regulations of 2001,
- (iii) the further relevant information, if any, referred to in paragraph (4)(a) and the description, if any, referred to in paragraph (4)(b),
- (iv) the environmental objectives of the river basin management plans established under the European Communities (Water Policies) Regulations 2003 (S.I. No. 722 of 2003),
- (v) the classification of bathing waters and bathing water quality status to be achieved in accordance with the Bathing Water Quality Regulations (S.I. No. 79 of 2008), as amended by the Bathing Water Quality (Amendment) Regulations (S.I. No. 351 of 2011) and the Bathing Water Quality (Amendment) Regulations (S.I. No. 163 of 2016),
- (vi) the programmes of actions made pursuant to the European Communities (Quality of Shellfish Waters) Regulations (S.I. No. 268 of 2006), as amended by the European Communities (Quality of Shellfish Waters) (Amendment) Regulations (S.I. No. 55 of 2009) and the European Communities (Quality of Shellfish Waters) (Amendment) (No. 2) Regulations (S.I. No. 464 of 2009),
- (vii) the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and
- (viii) in respect of a development which would be located on, or in, or have the potential to impact on—
 - (I) a European site,
 - (II) an area the subject of a notice under section 16(2)(b) of the Wildlife (Amendment) Act 2000 (No. 38 of 2000),
 - (III) an area designated as a natural heritage area under section 18 of the Wildlife (Amendment) Act 2000,

- (IV) land established or recognised as a nature reserve within the meaning of section 15 or 16 of the Wildlife Act 1976 (No. 39 of 1976),
- (V) land designated as a refuge for flora or as a refuge for fauna under section 17 of the Wildlife Act 1976,
- (VI) a place, site or feature of ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan, draft development plan or draft local area plan, or proposed variation of a development plan, for the area in which the development is proposed, or
- (VII) a place or site which has been included by the Minister for Culture, Heritage and the Gaeltacht in a list of proposed Natural Heritage Areas published on the National Parks and Wildlife Service website,

the likely significant effects of the development on such site, area, land, place or feature, as appropriate.

- (b) The Agency's screening determination under paragraph (5)(b) whether there is no real likelihood of significant effects on the environment arising from a proposed development or there is a real likelihood of significant effects on the environment arising from a proposed development, as the case may be, including the main reasons and considerations, with reference to the relevant criteria listed in Schedule 7 to the Regulations of 2001, on which that determination is based, and any notice under paragraph (6)(c), shall be placed and kept with the documents relating to the application.

(8) Where the screening determination under paragraph (5)(b) is that the proposed development would not be likely to have significant effects on the environment and the water services authority has provided, under paragraph (4)(b), a description of the features, if any, of the development and the measures, if any, envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment of the development, the Agency shall specify such features, if any, and such measures, if any, in that determination.

(9) The Agency shall, in respect of its conclusion under paragraph (3)(a) or its screening determination under paragraph (5)(b)(i), as appropriate, and the description referred to in paragraph (8)—

- (a) make that conclusion or screening determination, as appropriate, and that description available for inspection or purchase at a fee not exceeding the reasonable cost of making a copy during office hours—
 - (i) at the headquarters of the Agency,
 - (ii) at the principal office of the relevant water services authority, and
 - (iii) at the nearest public office of the relevant water services authority to the proposed development, and
- (b) publish that conclusion or screening determination, as appropriate and that description for inspection on its website for inspection within 3 working days of making that conclusion or screening determination, as appropriate.”.

CHAPTER VIII

AMENDMENT OF PART VII OF PRINCIPAL REGULATIONS

Amendment of Regulation 28 (Deciding on an application for a licence or for a revised licence)

28. Regulation 28 of the principal Regulations is amended by—

- (a) in paragraph (1)—
 - (i) the substitution of “5 weeks” for “1 month”, and
 - (ii) the insertion of “and person or body who made a submission in accordance with Regulation 19 within 3 working days” after “concerned”,
- (b) in paragraph (1)(c), the insertion of “or 18(9)(c)” after “applies”,
- (c) the insertion of the following paragraphs after paragraph (1)—

“(1A) The decision shall specify, include or refer to, as the case may be,—

 - (a) the name of the applicant,
 - (b) the reference number of the application, or the reference number of the licence or revised licence in the register if a licence or revised licence is granted,
 - (c) the location or postal address (including, where appropriate, the name of the townland or townlands) and description of the waste water works, the location of discharges to which the application related, or if a

licence or revised licence is granted, the location of discharges the subject of such licence, if different, and the National Grid reference of the location of any associated waste water treatment plant,

- (d) the nature of the decision,
- (e) the date of the decision,
- (f) in the case of a decision to grant a licence or revised licence – any conditions attached thereto,
- (g) the main reasons and considerations on which the decision is based, and, where conditions are imposed in relation to the grant of any licence or revised licence, the main reasons for the imposition of any such conditions,
- (h) that, in deciding an application, the Agency, in accordance with Regulation 19, has regard to submissions received in accordance with these Regulations,
- (i) in the case of a decision to grant a licence or revised licence for a development to which Regulation 18(11) applies – a description of the features, if any, of the proposed development and the measures, if any, envisaged to avoid, prevent or reduce and, if possible, offset the significant adverse effects on the environment of the proposed development and such conditions, if any, as are necessary to ensure the implementation of such features and measures,
- (j) in the case of a decision to grant or refuse a licence or revised licence where the decision by the Agency is different, in relation to the granting or refusal of such licence, from the recommendation in any report or reports prepared by or for the Agency (or such other person delegated to make the decision) – the main reasons for not accepting the recommendation in the report or reports to grant or refuse a licence or revised licence,
- (k) in the case of a decision to impose a condition (being an environmental condition which arises from the consideration of an EIAR submitted by the applicant) in relation to the grant of a licence or revised licence where the condition is materially different, in relation to the terms of such condition, from the recommendation in any report or reports by or for the Agency (or such other person delegated to make the decision) – the main reasons for not accepting, or for varying, as the case may be, the recommendation in the report or reports in relation to such condition,

- (l) in the case of a decision to grant, subject to or without conditions, or to refuse to grant, a licence or a revised licence where an EIAR was submitted by the applicant, a statement that the Agency is satisfied that the reasoned conclusion on the significant effects on the environment of the development was up to date at the time of the taking of the decision,
- (m) in the case of a decision to grant, subject to or without conditions, or to refuse to grant, a licence or a revised licence where an EIAR was submitted by the applicant, a summary of the results of the consultations that have taken place and information gathered in the course of the environmental impact assessment and, where appropriate, the comments received from an affected transboundary State, and specify how those results have been incorporated into the decision or otherwise addressed,
- (n) the content and extent of any waste water discharge, the level of treatment to be provided, if any, and the flow and type of such discharge,
- (o) details of any receiving water body, including its protected area status, if any, and details of any sensitive areas or protected areas, or both, in the vicinity of any discharge point or points or likely to be affected by any discharge and, in relation to any discharges to ground, details of groundwater protection schemes in place or to be provided for any receiving water body in the vicinity of such discharge,
- (p) any monitoring and sampling points and any proposed arrangements for the monitoring of discharges and details of the likely environmental consequences of any such discharges,
- (q) any existing or proposed measures, including emergency procedures, to prevent unintended waste water discharges and to minimise the impact on the environment of any such discharges,
- (r) particulars of the location of the nearest downstream drinking water abstraction point or points, if any, to any discharge point or points,
- (s) any measures required to prevent or eliminate, or, where that is not practicable, to limit or abate any pollution caused by any existing or proposed discharges, including to any environmental medium other than that into which the discharges take place or are to take place,
- (t) any work necessary to meet relevant effluent discharge standards and a timeframe and schedule for such work.

- (1B) (a) Where the Agency decides to grant a licence or revised licence, it shall—
- (i) attach such conditions, if any, to such licence as it considers necessary, to avoid, prevent or reduce and, if possible, offset the significant adverse effects on the environment of the proposed development,
 - (ii) in the decision, specify the features, if any, of the proposed development and the measures, if any, envisaged to avoid, prevent or reduce and, if possible, offset the significant adverse effects on the environment of the proposed development, and
 - (iii) subject to subparagraph (b), where appropriate, specify in the decision measures to monitor the significant adverse effects on the environment of the proposed development, being measures which, as regards the types of parameters to be monitored and the duration of the monitoring, are proportionate to the nature, location and size of the proposed development and the significance of the effects on the environment of the proposed development.
- (b) Where the Agency decides to grant consent for the proposed development, it may, if appropriate to avoid duplication of monitoring, and without prejudice to existing monitoring arrangements pursuant to national or European Union legislation (other than the Environmental Impact Assessment Directive), identify those arrangements (or such of those arrangements as it thinks appropriate in the particular case) to be used for the purpose of subparagraph (a)(iii).”, and
- (d) the insertion of the following paragraph after paragraph (2)—
- “(2A) (a) Notwithstanding paragraphs (1) and (2), in relation to an application for a licence to which Regulation 16(3A) applies, the Agency may extend the period of 4 months referred to in paragraph (1) by such period as the Agency, in consultation with the planning authority concerned or An Bord Pleanála, as the case may be, considers necessary for completion of consultations referred to in Regulations 6(7), 21(6), 21(7), or 21(8) with the planning authority or An Bord Pleanála or to enable the Agency to comply with Regulations 21(6)(d) or 21(8)(d).

- (b) The Agency shall give notice in writing of the extension of the period under paragraph (a) to—
 - (i) the water services authority which made the application,
 - (ii) the planning authority in whose functional area the development is or will be situate,
 - (iii) where An Bord Pleanála is considering or has considered an application for permission for development comprising or for the purposes of the waste water discharge in relation to which the application for a licence is required, An Bord Pleanála,
 - (iv) any person who made a written submission in relation to the application, and
 - (v) any person or body notified in accordance with Regulation 21(1).”.

Amendment of Regulation 29 (Conditions attaching to licences, including those necessary to give effect to certain provisions of Community Acts)

29. Regulation 29 of the principal Regulations is amended by—

- (a) in paragraph 2(b), the substitution of “the Water Framework Directive or the Environmental Quality Standards Directive” for “the Dangerous Substances Directive or the Water Framework Directive and Daughter Directives”, and
- (b) in paragraph (2)(d), the insertion of the following after “Regulation 2(3)”—
“, other than the Environmental Impact Assessment Directive where it is determined in accordance with Regulation 18 or Regulation 25 that an environmental impact assessment is not required.”.

Amendment of Regulation 30 (Deciding on an application for a certificate or for a revised certificate)

30. Regulation 30 of the principal Regulations is amended in paragraph (1) by—

- (a) the substitution of “25(1)(c)(i)” for “25(c)(i)”, and
- (b) the substitution of “25(1)(c)(ii) or 25(6)(c)” for “25(c)(ii)”.

Amendment of Regulation 31 (Conditions attaching to certificates, including those necessary to give effect to certain provisions of Community Acts)

31. Regulation 31 of the principal Regulations is amended in paragraph (2) by—

- (a) in subparagraph (b), the substitution of “the Water Framework Directive or the Environmental Quality Standards Directive” for “the Dangerous Substances Directive or the Water Framework Directive and Daughter Directives”,
- (b) in subparagraph (d), the insertion of “, other than the Environmental Impact Assessment Directive”, after “Regulation 2(3)”, and
- (c) the insertion of the following subparagraph after subparagraph (d)—

“(da) in the case of a decision to grant a certificate or revised certificate for a development to which Regulation 25(8) applies — give a description of the features, if any, of the proposed development and the measures, if any, envisaged to avoid, prevent or reduce and, if possible, offset the significant adverse effects on the environment of the proposed development and specify such conditions, if any, as are necessary to ensure the implementation of such features and measures.”.

Amendment of principal Regulations – insertion of Regulation 31A

32. The principal Regulations are amended, by the insertion, in Part VII, of the following Regulation after Regulation 31—

“Surrender of a licence

31A. (1) A licence may be surrendered by the holder at any time, subject to the agreement of, and by written notice to, the Agency.

(2) A water services authority which desires to surrender its licence shall make an application for that purpose to the Agency, in such form, and giving such information and accompanied by such evidence, as the Agency requires.

(3) The Agency shall not agree to the surrender of a licence unless it is satisfied that the discharge from the discharge point or points concerned have been terminated or are authorised by or under another licence.”.

Amendment of Regulation 34 (Questioning of decision of Agency)

33. Regulation 34(b) of the principal Regulations is amended by the substitution of “18(3A), 20(2)(a), 20(2)(c)(i), 24A(2), 24A(3), 25(3)(c)(ii) or 25(5)(b)(ii)(II)” for “20(2)(a) or 20(2)(c)(i).”

Amendment of Regulation 36 (Register)

34. Regulation 36 of the principal Regulations is amended by—

- (a) in paragraph (1), the insertion of “of all applications for licences and certificates and revised licences and revised certificates received by it and” after “register”,
- (b) in paragraph (2), the insertion of “to each application for a licence and certificate and revised licence and revised certificate received by it and” after “reference number”, and
- (c) in paragraph (3), the insertion of “publish on its website for inspection all of the information contained in the register and shall” after “shall”.”.

GIVEN under my Official Seal,
16 June, 2020.

EOGHAN MURPHY,
Minister for Housing, Planning and Local Government.



L.S.

EXPLANATORY NOTE

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

For applications for authorisation by the Environmental Protection Agency of waste water discharges by Irish Water or local authorities (water services authorities), these Regulations transpose into Irish law the provisions of Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment, and insofar as they had not previously been transposed into Irish law, the provisions of Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment.

These Regulations also amend the Planning and Development Act 2000 (No. 30 of 2000) so as to ensure that an environmental impact assessment is carried out, where required under Directive 2014/52/EU, in relation to relevant decisions of the Environmental Protection Agency to grant a waste water discharge authorisation where a land-use consent is also required.

The provisions include:

- Preliminary examination of all applications for licences and certificates, and revised licences and certificates, to determine if there is or is not a real likelihood of significant effects on the environment;
- if there is no such likelihood, examination of the application without undertaking an environmental impact assessment;
- if the likelihood cannot be excluded, a screening of the application for environmental impact assessment, and subsequent consideration of the application without undertaking an environmental impact assessment, if the screening determines there is no real likelihood of significant effects on the environment, or if there is a real likelihood of significant effects on the environment, inclusion of an environmental impact assessment in the examination of the application;
- notification as to whether an environmental impact assessment report was provided by or sought from an applicant for land-use consent where an application for an authorisation for a waste water discharge is made;
- consultations between the Environmental Protection Agency on the one hand, and the relevant local authority or An Bord Pleanála as appropriate on the other, in relation to applications for authorisations for waste water discharges where an environmental impact assessment report has been prepared;
- finalisation of the grant of permission or refusal to grant permission under the Planning and Development Act 2000 before deciding on the

- application for an authorisation for a waste water discharge where an environmental impact assessment report had been prepared;
- where an application for a certificate or a revised certificate in respect of an agglomeration of less than 500 population equivalent is determined to require environmental impact assessment, no decision is made on the application and an application for a licence must be made;
- procedures for the Environmental Protection Agency to advise on the scope of an environmental impact assessment report, where such advice is sought by the water services authority;
- revised provisions for public notice of applications requiring environmental impact assessment, including on the EIA portal;
- web access to applications requiring environmental impact assessment;
- increased time limits for making submissions on applications requiring environmental impact assessment;
- transboundary consultations on relevant applications requiring environmental impact assessment;
- increased information to be provided in the decision on applications;
- web access to decisions where the application was subject to environmental impact assessment;
- examination of a licence to determine whether a review of it is required; and
- surrender of a licence.

These Regulations come into operation for applications for a waste water discharge authorisation made on or after 30 June 2020.

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