



To: Chief Executives, City and County Councils
Directors of Planning Services, City and County Councils
Chief Executive, Office of Planning Regulator
Chairperson, An Bord Pleanála
Directors, Regional Assemblies

Cc: Senior Planners, City and County Councils
Deputy Regulator, Office of Planning Regulator
Director of Planning, An Bord Pleanála
Assistant Directors, Regional Assemblies

Circular Letter: EUIPR 04/2022

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Planning and Development (Amendment) Regulations 2022

I am writing to inform you that Mr Peter Burke, TD, Minister of State at the Department of Housing, Local Government and Heritage, has recently made new regulations entitled the 'Planning and Development (Amendment) Regulations 2022' (S.I. 419 of 2022).

A copy of these Regulations is enclosed at Appendix 1.

The present Regulations amend article 132 of the Planning and Development Regulations 2001 (the 2001 Regulations) which provides for public notice of information received in relation to transboundary environmental impact assessment (EIA) consultations. These amendments revise the statutory transboundary EIA public consultation process that takes place in Ireland when notification is received from a transboundary State of a proposed development in that State that may have transboundary environmental impacts on Ireland. These amendments are in line with the provisions of both the EU's EIA Directive and the UN's Convention on Environmental Impact Assessment in a Transboundary Context (the Espoo Convention).



The two key changes to the current public consultation process comprise:

- a) Provision for the Minister to nominate one or more planning authorities to co-ordinate a single national/regional transboundary EIA public consultation, which would otherwise be operated by multiple county councils, and
- b) Provision for submissions made by members of the public to be sent directly to the competent authority in the transboundary State.

Background

S.I. 419 of 2022 amends the public consultation process set out under article 132 of the 2001 Regulations. This process is invoked when the Minister receives notification from a transboundary State, of a proposed development in that jurisdiction that may have significant adverse transboundary environmental impact in Ireland.

Section 174 of the Planning and Development Act 2000, as amended (the Act) and article 132 of the 2001 Regulations provide the legal basis for the transboundary EIA consultation process, as required by article 7 of the EIA Directive and by article 3(8) of the Espoo Convention. Article 132(1) provides that, when the Minister is notified by a transboundary State of a development in that State, that may have significant adverse transboundary environmental impacts in Ireland, the Minister, in order to initiate the public consultation process, must notify any planning authorities likely to be affected by the development.

Prior to the introduction of S.I. 419 of 2022, if a notification received from transboundary State authorities related to a proposed development, with potential nationwide transboundary environmental impacts, the Minister was obliged to notify all 31 planning authorities. Article 132 of the 2001 Regulations then sets out what planning authorities must do once the Minister has notified them of the proposed transboundary consultation. Essentially, all 31 authorities would have to initiate individual public consultations on the same development that had potential nationwide transboundary environmental impacts, resulting in significant duplication of work with the potential for multiple public notices on the same consultation process.

One of the primary amendments to the process included in S.I. 419 of 2022, is to provide for the nomination of one or more planning authorities to administer transboundary public consultations when the potential transboundary environmental impact is nationwide, or on a regional or multi-county basis, whereby public notices will be placed in national newspapers as appropriate.



The previous legislative process under article 132(3)(vi) of the 2001 Regulations provided that members of the public in Ireland that wish to participate in transboundary EIA consultations must send submissions to the planning authority in Ireland that published the consultation notice. The 2001 Regulations then required the planning authority to forward the submissions to the competent authority in the transboundary State.

The amended transboundary consultation procedure in S.I. 419 of 2022 now provides for members of the public who wish to make submissions, to forward their observations directly to the competent authority in the State concerned. This streamlined amendment is in keeping with the provisions of both Article 7(3)(b) of the EIA Directive and Article 3(8) of the Espoo Convention.

Interpretation

The above summary of the new legislative provisions has been prepared by the Department for ease of reference only and does not purport to be a legal interpretation of the legislation.

Online resources

The Department maintains an up-to-date administrative consolidation of the Planning and Development Regulations 2001, as amended. A version of the 2001 Regulations, incorporating amendments made by the 2022 Regulations (S.I. No. 419 of 2022), will be made available on the Department's website (<https://www.gov.ie/housing/>) as soon as possible.

Any queries in relation to this Circular letter should be emailed to euplanningregulation@housing.gov.ie.

Yours sincerely,

Eamonn Kelly

Principal Officer

EU & International Planning Regulation