



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 05/2022

19 December 2022

Planning and Development (Amendment) (No.3) 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) (No.3) Regulations 2022' (S.I. 647 of 2022). A copy of these Regulations is enclosed at Appendix 1.

The new Regulations amend articles 95 and 211 of the Planning and Development Regulations 2001 - 2022 (the 2001 Regulations). This amendment is required in order to bring the Planning Code into compliance with the Second Amendment to the UNECE Convention on Environmental Impact Assessment in a Transboundary Context (The Espoo Convention).

The scoping process at articles 95 and 211 of the 2001 Regulations transpose the scoping procedure at article 5(2) of the EIA Directive, which requires a competent authority to consult with prescribed environmental authorities before providing an opinion to a developer on the level of detail that must be included in an environmental impact assessment report (EIAR).

The Second Amendment to the Espoo Convention (attached for information) includes a requirement to consult potentially affected Parties (other States potentially impacted by



a proposed development) when the scoping process to determine the content of an EIAR is underway.

The change in the new regulations amends the list of statutory consultees at articles 95 and 211 of the 2001 Regulations, to include transboundary States, as appropriate.

Background

The Espoo Convention was signed by Ireland in 1991 and ratified on the 25 July 2002. Since ratification, there have been two amendments to the Convention and a new Protocol on Strategic Environmental Assessment was adopted in 2003.

Work to progress ratification of the First Amendment to the Convention has been completed, and it is expected that formal ratification will conclude early in January 2023. No legislative amendments were necessary in order to complete this work.

The Second Amendment to the Convention was adopted in 2004 and entered into force on the 23 October 2017. Ireland has a long-standing transboundary EIA relationship with the UK, most often with authorities in Northern Ireland and most of this engagement takes place within the planning system. The significance of the Espoo Convention to Ireland has increased since the UK is no longer part of the European Union, therefore, is not bound by EU Directives. As the UK is also a Party to the Espoo Convention, transboundary EIA consultation will continue to take place under the provisions of the Convention as opposed to Article 7 of the EIA Directive. The amendments introduced are important to ensure the planning system fully complies with the provisions of the Espoo Convention.

The amended scoping procedure in S.I. 647 of 2022 now provides that the relevant transboundary states potentially impacted by a proposed development be given the opportunity to participate in the statutory EIA scoping process.

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. 647 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,

A handwritten signature in black ink that reads "Lisa Clifford".

Lisa Clifford

Principal Officer

EU & International Planning Regulation