



STATUTORY INSTRUMENTS.

S.I. No. 310 of 2015

PLANNING AND DEVELOPMENT (AMENDMENT) (NO. 2)
REGULATIONS 2015

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I, PAUDIE COFFEY, Minister of State at the Department of the Environment, Community and Local Government in exercise of the powers conferred on the Minister for the Environment, Community and Local Government by sections 33 and 37P of the Planning and Development Act, 2000, as amended, (as adapted by the Environment, Heritage and Local Government (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. 193 of 2011), which powers are delegated to me by the Environment, Community and Local Government (Delegation of Ministerial Functions) Order 2014 (S.I. 524 of 2014) hereby make the following Regulations:

Citation.

1. (1) These Regulations may be cited as the Planning and Development (Amendment) (No. 2) Regulations 2015.

(2) These Regulations and the Planning and Development Regulations 2001 to 2014 shall be construed as one and may be collectively cited as the Planning and Development Regulations 2001 to 2015.

Commencement.

2. These Regulations shall come into operation on the date of signature.

Interpretation.

3. In these Regulations, unless otherwise stated,

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

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

Insertion of a new Part 21 into the Regulations

4. The following Part is inserted into the Regulations after Part 20:

"PART 21

APPLICATION TO AN BORD PLEANÁLA FOR PERMISSION
UNDER SECTION 37L OF THE ACT*Notice of application under section 37L.*

263. (1) An applicant shall within the period of 2 weeks before the making of an application for permission under section 37L of the Act—

- (a) give notice of the intention to make the application in a newspaper in accordance with article 264, and
- (b) give notice of the intention to make the application by the erection or fixing of a site notice in accordance with article 265.

(2) Where the last day of the 2-week period referred to in sub-article (1) is a Saturday, Sunday, a public holiday (within the meaning of the Organisation of Working Time Act 1997 (No. 20 of 1997)), or any other day on which the offices of the Board are closed, the application shall be valid if received on the next following day on which the offices of the Board are open.

Notice in newspaper.

264. A notice published in accordance with article 263(1)(a) shall be published in a newspaper approved under article 18(2) by the planning authority for the area in which the development the subject of the application for permission under section 37L is located, shall contain as a heading "Application to An Bord Pleanála for permission in relation to a quarry; section 37L of the Planning and Development Act, 2000" and shall—

- (a) state the name of the applicant,
- (b) state the location, townland or postal address of the land to which the application relates (as may be appropriate),
- (c) give a brief description of the nature and extent of the development,
- (d) state that the application is accompanied by an EIS or NIS, or both of those statements, where that is the case, and
- (e) state that the application and accompanying documentation may be inspected, or purchased at a fee not exceeding the reasonable cost of making a copy, at the offices of An Bord Pleanála and the relevant planning authority during their public opening hours and that a submission or observation in relation to the application may be made to An Bord Pleanála in writing within the period of 5 weeks beginning on the date of receipt by the Board of the application.

Site notice.

265. (1) A site notice erected or fixed on any land or structure in accordance with article 263(1)(b) shall—

- (a) be in the form set out at Form No. 10 of Schedule 3, or a form substantially to the like effect, and
- (b) be inscribed or printed in indelible ink on a white background, affixed on rigid, durable material and secured against damage from bad weather and other causes.

(2) The provisions of article 19(1)(c), 19(2) and 19(3), shall apply to a notice erected or fixed under sub-article (1), save that a reference to the planning authority shall be construed as a reference to the Board.

Time limits for site notice.

266. In addition to the requirements of articles 263(1)(b) and 265, a site notice shall be maintained in position on the land, shall be renewed or replaced if it is removed or becomes defaced or illegible and shall not be removed by the applicant prior to notification of the Board's decision under section 37N of the Act.

Content of applications for permission under section 37L generally.

267. (1) An application for permission under section 37L shall be made in the form set out at Form No. 2 of Schedule 3, or a form substantially to the like effect, and shall be accompanied by a fee which shall be the same as the fee which would be payable were the application for permission to be made to the relevant planning authority.

(2) An application for permission under section 37L shall—

- (a) be accompanied by the relevant page of the newspaper, or a copy of the relevant page, including the date and title of the newspaper, in which notice of the application has been published pursuant to article 263(1)(a), and a copy of the site notice erected or fixed on the land or structure pursuant to article 263(1)(b),
- (b) be accompanied by 6 copies of 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 such other scale as may be agreed with the Board prior to the submission of the application, in any particular case, and marked so as to identify clearly:
 - (i) the land or structure to which the application relates and the boundaries thereof in red,
 - (ii) any land which adjoins, abuts or is adjacent to the site the subject of the application and which is under the control of

the applicant or the person who owns the land which is the subject of the application in blue,

(iii) any wayleaves in yellow, and

(iv) the position of the site notice or notices erected or fixed to the land or structure pursuant to article 263(1)(b),

(c) be accompanied by 6 copies of such plans (including a site or layout plan and where appropriate drawings of floor plans, elevations and sections which comply with the requirements of article 23) and such other particulars, as are necessary to describe the works to which the application relates,

(d) where the development the subject of the application involves the disposal of wastewater from the development other than to a public sewer, include information on the on-site treatment system and evidence as to the suitability of the site for the system in question.

(3) An electronic copy of the application and all relevant documents shall be given to the Board.

(4) Where the Board consents to the making of an application for permission under section 37L wholly or partly in electronic form, such application for permission or any part thereof may be made by the applicant in that form; where that occurs, one copy of the application or part thereof will be sufficient.

(5) The Board may, by notice in writing, require an applicant to provide additional copies, whether hard copies or an electronic copy, of any EIS or NIS submitted or any plan, drawing, map, photograph or other particular which accompanies the application.

Procedure on receipt of application for permission under section 37L.

268. (1) On receipt of an application, the Board shall consider whether the applicant has complied with the requirements of articles 264, 265, and 267.

(2) Where the Board considers that an application for permission under section 37L complies with the requirements of articles 264, 265, and 267 it shall send to the applicant an acknowledgement of the application, stating the date of its receipt.

(3) Where, following consideration of an application for permission under sub-article (1), the Board considers that the application does not comply with the requirements of articles 264, 265, and 267, and that such non-compliance constitutes a material defect in the application which cannot be readily rectified through the submission of additional documentation, the application shall be invalid and the Board shall return the application to the applicant with a notice stating that the application is invalid and stating the

reason or reasons that the application is invalid and shall return to the applicant any fee paid with the application.

(4) Where, on inspection of the land to which the application for permission relates, the Board considers that the requirements of articles 263(1)(b), 265 or 266 have not been complied with, or the information submitted in the application is substantially incorrect or substantial information has been omitted, the application shall, notwithstanding the fact that an acknowledgement has been sent to an applicant in accordance with sub-article (2), be invalid and the Board shall return the application to the applicant with a notice stating that the application is invalid and stating the reason or reasons that the application is invalid and shall return to the applicant any fee paid with the application.

(5) The Board shall not find an application under section 37L to be invalid on the grounds that the site notice does not comply with the relevant provisions of this Part where it is satisfied that the applicant complied with the provisions of articles 263 but that any site notice erected by the applicant has been maliciously defaced or destroyed by any person other than the applicant.

(6) Where a notice is served on an applicant in accordance with sub-article (3), the Board shall by notice in writing inform any person or body who has made a submission or observation in accordance with article 271 and any body to whom notice was sent in accordance with article 270 of that fact.

Making the application for permission under section 37L available for inspection.

269. (1) As soon as may be after receipt of an application for permission under section 37L, the Board shall make the application available for inspection or purchase at a fee not exceeding the reasonable cost of making a copy at its offices during its public opening hours.

(2) Where a planning authority receives a copy of an application for permission pursuant to section 37L(10), it shall make the application and documentation available for inspection or purchase at a fee not exceeding the reasonable cost of making a copy, at its offices during its public opening hours.

Notice to certain bodies.

270. (1) Where the Board receives an application for permission under section 37L the Board shall, except in the case of an application which has been deemed invalid under article 268, as soon as may be after receipt of the application, give notice as appropriate to a body or bodies prescribed in article 28(1) and (4).

(2) Notice given by the Board pursuant to sub-article (1) shall include a copy of the application referred to in article 267(1), including any electronic

copy of the documentation as appropriate, and of the location map referred to in article 267(2)(b) and shall state-

- (a) the date of receipt by the Board of the application, and
 - (b) that any submission or observation made to the Board in relation to the application before the decision is made on the application will be considered by the Board in making its decision, and that the Board will make its decision not earlier than 5 weeks from the date of the notice.
- (3) Where a prescribed body which has been notified under sub-article (2) requests a copy of some or all of the documentation accompanying the application the Board shall make that documentation available to the prescribed body as soon as possible.
- (4) The Board shall acknowledge any submissions or observations from prescribed bodies as soon as may be after receipt thereof.
- (5) Where a prescribed body to whom notice is sent pursuant to sub-article (1) does not make a submission or observation in relation to an application for permission under section 37L within a period of 5 weeks beginning on the date of receipt of the application by the Board, the Board may determine the application without further notice to that body.
- (6) (a) The Board may, with the consent of any person or body referred to in sub-article (1), send notice under that sub-article, in electronic form.
- (b) Where the Board so consents, a submission or observation referred to in sub-article (2)(b) may be made in electronic form.

Submissions or observations in relation to an application for permission under section 37L.

271. (1) (a) Any person or body may make a submission or observation in writing to the Board in relation to an application for permission under section 37L within the period of 5 weeks beginning on the date of receipt by the Board of the application.
- (b) Any submission or observation received shall—
- (i) state the name and address of the person or body making the submission or observation, and
 - (ii) indicate the address to which any correspondence relating to the application should be sent.
- (2) Subject to article 268, the Board shall acknowledge any submissions or observations received under sub-article (1) as soon as may be after receipt thereof.

(3) Where a submission or observation, under this article, is received by the Board after the period of 5 weeks beginning on the date of receipt of the application, the Board shall return to the person or body concerned the submission or observation received, and notify the person or body that the submission or observation cannot be considered by the Board.

(4) Where the Board so consents, a submission or observation under sub-article (1) may be made in electronic form.

Allowance for Public Holidays, etc.

272. Where a requirement of these regulations requires submissions, observations or a request to be made, or documents, particulars or other information to be submitted to the Board within a specified period and the last day of that period is a public holiday (within the meaning of the Organisation of Working Time Act, 1997) or any other day on which the offices of the Board are closed, the submissions, observations or request or documents, particulars or other information (as the case may be) shall be regarded as having been received before the expiration of that period if received by the Board on the next following day on which the offices of the Board are open.

Further Information.

273. (1) Where the Board acknowledges receipt of an application for permission under section 37L in accordance with article 268 it may, by notice in writing require the applicant—

- (a) to submit any further information, including
 - (i) where an EIS or NIS was submitted with the application, a revised EIS or NIS, or
 - (ii) any plans, maps or drawings, or any information as to any estate or interest in or right over land

where the Board considers that this is necessary to enable it to deal with the application, or

- (b) to produce any evidence which the Board may reasonably require to verify any particulars or information given in, or in relation to, the application.

(2) Where a requirement for further information under sub-article (1) is not complied with within the period of 6 months from the date of that requirement, or such additional period as may be agreed by the Board, the application shall be deemed to be withdrawn and the Board shall, as soon as may be, notify the applicant that the application has been deemed to be withdrawn.

(3) Where the Board receives further information pursuant to this article it shall as soon as possible place a copy of such documents with the other

documents relating to the application and make them available for inspection or purchase at a fee not exceeding the reasonable cost of making a copy, at its offices during office hours, and shall also send a copy to the relevant planning authority.

(4) Where a planning authority receives further information from the Board pursuant to sub-article (3) it shall as soon as possible place a copy of such documents with the other documents relating to the application and make them available for inspection or purchase at a fee not exceeding the reasonable cost of making a copy, at its offices during office hours.

Sub-threshold EIS.

274. (1) Where an application for permission under section 37L in relation to a quarry which does not exceed 5 hectares is not accompanied by an EIS and the likelihood of significant effects on the environment cannot be excluded by the Board, the Board shall make a determination as to whether the development would be likely to have significant effects on the environment and where it determines that the development would be likely to have such significant effects it shall, by notice in writing, require the applicant to submit an EIS and to comply with the requirements of article 276.

(2) In making a determination under sub-article (1) the Board shall consider whether the development would be located on or have the potential to impact on an area referred to in paragraphs (a) to (g) of article 109(3).

Application of Articles 110 and 111.

275. Articles 110 and 111 shall apply to an application under section 37L as if the reference in those articles to an appeal was a reference to an application for permission under section 37L.

Further notice where the Board requires an EIS or a NIS.

276. (1) Where an application for permission under section 37L is not accompanied by an EIS or an NIS, and the Board requires the applicant to submit an EIS pursuant to Article 274, or to submit an NIS pursuant to section 177T(5), or to submit both of those statements, the applicant shall, not more than 2 weeks before submitting the statement concerned publish notice of the intention to submit such statement in at least one newspaper approved under article 18(2).

(2) A notice under sub-article (1) shall contain as a heading "An Bord Pleanála", and shall state—

- (a) the name of the applicant,
- (b) the name of the planning authority,
- (c) the location, townland or postal address of the land to which the application relates (as may be appropriate),
- (d) the date of the planning application,

- (e) the nature and extent of the development,
- (f) that, following a requirement of the Board, an EIS, an NIS, or both, as the case may be, will be submitted to the Board in connection with the application,
- (g) that the EIS, NIS or both, as the case may be, will be available for inspection or purchase at a fee not exceeding the reasonable cost of making a copy during office hours at the offices of the Board and the relevant planning authority, and
- (h) that a submission or observation in relation to the EIS or NIS or both as the case may be, may be made in writing to the Board within 5 weeks of the date of receipt by the Board of the EIS, NIS, or both as the case may be.

(3) An EIS submitted under article 274 or an NIS submitted under section 177T(5) shall be accompanied by a copy of the relevant page of the newspaper in which a notice under sub-article (1) was published.

(4) Where it appears to the Board that a notice published under sub-article (1)—

- (a) does not comply with any of the requirements of sub-articles (1) or (2), or
- (b) because of its content or for any other reason, is misleading or inadequate for the information of the public, the Board shall require the applicant to give such further notice in such manner and in such terms as it may specify and to submit such evidence as it may specify in relation to compliance with such requirement.

(5) Where an EIS or a NIS is received by the Board in relation to an application under section 37L, pursuant to a requirement under article 274 or section 177T(5), respectively, the Board shall—

- (a) notify the bodies prescribed under article 28, as appropriate, of that fact, indicating that a copy of the EIS, NIS, or both, as the case may be, will be made available to the body on request and that a submission or observation in relation to the EIS or NIS as appropriate may be made in writing to the Board within 5 weeks of the date of receipt by the Board of the EIS or NIS.
- (b) notify any person who made a submission or observation on in accordance with the Regulations of that fact, indicating that the EIS, NIS or both as the case may be, is or are available for inspection or purchase at a fee not exceeding the reasonable cost of making a copy during office hours at the offices of the Board and

the relevant planning authority and also indicating that a submission or observation in relation to the EIS or NIS as appropriate may be made in writing to the Board without charge within 5 weeks of the date of receipt by the Board of the EIS or NIS.

- (c) comply as soon as possible with any request under paragraph (a).

Notice of further information.

277. Where in relation to an application for permission under section 37L, the Board considers that any submission, observation, document, particulars or other information submitted to it in response to a request or requirement of the Board, including a revised EIS or NIS, contains significant additional information on the effects on the environment, or on a European site, of the proposed development, the Board shall publish, in at least one approved newspaper, a notice stating that—

- (a) significant additional information on the effects on the environment, or on a European site, of the proposed development has been furnished to the Board, and
- (b) the further information will be available for inspection or for purchase at a fee not exceeding the reasonable cost of making a copy during office hours at the offices of the Board and the relevant planning authority and that a submission or observation on the further information may be made in writing to the Board within a specified period.

Availability for inspection or purchase of EIS or NIS at offices of Board.

278. An EIS or NIS received by the Board in connection with an application for permission under section 37L shall, as soon as maybe following receipt of the EIS or NIS, be made available for inspection or purchase at a fee not exceeding the reasonable cost of making a copy during office hours at the offices of the Board or such other convenient place as the Board may specify.

Availability for inspection or purchase of EIS or NIS at offices of planning authority.

279. (1) Where an EIS or NIS is sent to the Board pursuant to article 274 or section 177T(5), respectively, the Board shall send a copy to the relevant planning authority.

(2) The planning authority shall, as soon as possible following receipt of an EIS or NIS under sub-article (1), make the EIS or NIS available for inspection or purchase for a fee not exceeding the reasonable cost of making a copy during office hours at the offices of the authority until the application is decided by the Board.

Board's weekly list.

280. The Board shall include information on applications for permission under section 37L in the list required to be made available under article 72,

including whether an EIS or NIS was submitted in relation to the application.

Minimum period for determination of an application for permission under section 37L.

281. The Board shall not decide an application for permission under section 37L until after a period of 5 weeks, beginning on the date of receipt of an application, has elapsed.

Notification of decision on an application for permission under section 37L.

282. (1) Notification of a decision by the Board in respect of an application for substitute consent shall be given to the applicant and to any other person or body who made a submission or observation in accordance with article 270 or 271 as soon as possible after the decision.

(2) A notification under sub-article (1) shall comply with the provisions of section 37N(4) of the Act and shall further state that, in deciding an application, the Board, in accordance with section 37N(2) of the Act, has considered submissions or observations received in accordance with these Regulations."

Amendment of Schedule 3 of the Regulations.

5. Schedule 3 of the Regulations is amended by the insertion, after Form No. 9, of Form No. 10 set out in the Schedule to these Regulations.

Schedule

Form no. 10

Article 265

SITE NOTICE

APPLICATION TO AN BORD PLEANÁLA FOR PERMISSION FOR A QUARRY UNDER SECTION 37L OF THE ACT

I,¹ intend to apply for permission under section 37L of the Planning and Development Act 2000 for development at this site.

.....

.....²

The development consists of

.....

.....

.....³

The application is accompanied by an Environmental Impact Statement⁴:

Yes No

The application is accompanied by a Natura impact statement⁴:

Yes No

Submissions or observations may be made on the application, to An Bord Pleanála, Marlborough Street, Dublin 1, free of charge. Submissions or observations must be in writing and made within the period of 5 weeks beginning on the date of receipt of the application by An Bord Pleanála and such submissions and observations will be considered by An Bord Pleanála in making a decision on the application. An Bord Pleanála may grant the consent subject to or without conditions, or may refuse to grant it.

The application for permission may be inspected, or purchased at a fee not exceeding the reasonable cost of making a copy, at the offices of An Bord Pleanála, or the relevant planning authority during its public opening hours.

Signed:⁵

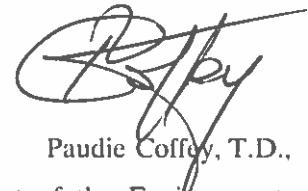
Date of erection of site notice⁶

Directions for completing this notice.

1. The name of the applicant for permission (and not his or her agent) should be inserted here.
2. The location, townland or postal address of the land or structure to which the application relates should be inserted here.
3. A brief description of the nature and extent of the development should be inserted here.
4. Tick appropriate box.
5. Either the signature of the applicant or the signature and contact address of the person acting on behalf of the applicant should be inserted here.
6. The date that the notice is erected or fixed at the site should be inserted here.

GIVEN under my Official Seal,

16th July 2015



Paudie Coffey, T.D.,

Minister of State at the Department of the Environment,
Community and Local Government.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN ISOLÁTHAIR
Le ceannach díreach ó
FOILSEACHAIN RIALTAIS.
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nó trí aon d'foltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€3.81 (*Provisional Price*)

ISBN 978-1-4468-2592-1



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Wt. (B31346). 285. m/yy. Clondalkin. Gr.30-15.