



STATUTORY INSTRUMENTS

**S.I. No. 191 of 2017**



FORESTRY REGULATIONS 2017

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FORESTRY REGULATIONS 2017  
ARRANGEMENT OF REGULATIONS

PART 1

PRELIMINARY AND GENERAL

1. Citation and commencement.
2. Interpretation.

PART 2

CONTROL OF FELLING OF TREES

3. Application for felling licence.
4. Site Notice.

PART 3

CONTROL OF AFFORESTATION

5. Application for afforestation licence.

PART 4

CONTROL OF FOREST ROAD WORKS

6. Application for forest road licence.

PART 5

CONTROL OF AERIAL FERTILISATION OF FORESTS

7. Application for aerial fertilisation licence.
8. Restrictions in respect of aerial fertilisation.

PART 6

CONSULTATION

9. Notice to consultation body.
10. Public consultation.
11. Site Notice in respect of afforestation and forest road works.

PART 7

ENVIRONMENTAL IMPACT ASSESSMENT

12. Definitions.
13. Environmental impact assessment of forestry development.
14. Where development affects another Member State.
15. Application of Regulations to public of Member State.
16. EIS: Exemption.
17. Review of decision.
18. Costs in civil proceedings.

PART 8

APPROPRIATE ASSESSMENT

19. Protection of European sites.

PART 9

DECISIONS

20. Decision of Minister on application.
21. Notification of decision.

PART 10

MISCELLANEOUS

22. Penal provision.
23. Revocation.

SCHEDULE 1

INFORMATION TO BE PROVIDED BY THE APPLICANT FOR AFFORESTATION OR FOREST  
ROAD LICENCE

SCHEDULE 2

REQUIREMENTS AS TO THE MANNER OF APPLICATION OF FERTILISER FROM THE AIR

SCHEDULE 3

CRITERIA REGARDING SUB-THRESHOLD DEVELOPMENT

SCHEDULE 4

INFORMATION TO BE CONTAINED IN AN EIS

S.I. No. 191 of 2017

## FORESTRY REGULATIONS 2017

I, MICHAEL CREED, Minister for Agriculture, Food and the Marine, in exercise of the powers conferred on me by sections 6, 10, 17, 22 and 30 of the Forestry Act 2014 (No. 31 of 2014) and for the purpose of giving further effect to Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011<sup>1</sup>, as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014,<sup>2</sup> Directive 2006/11/EC of the European Parliament and of the Council of 15 February 2006<sup>3</sup>, and Directive 2009/147/EC<sup>4</sup> of the European Parliament and of the Council of 30 November 2009 and Council Directive 92/43/EEC<sup>5</sup> of 21 May 1992 insofar as those Directives apply to forestry developments, hereby make the following regulations:

## PART 1

## PRELIMINARY AND GENERAL

*Citation and commencement*

1. (1) These Regulations may be cited as the Forestry Regulations 2017.
- (2) These Regulations shall come into operation on 24 May 2017.

*Interpretation*

2. (1) In these Regulations—

“Act of 1976” means the Wildlife Act 1976;

“aerial fertilisation” means to apply fertiliser to a forest by use of aircraft;

“aquatic zone” means a permanent or seasonal river, stream or lake shown on an Ordnance Survey map;

“consultation body” means—

- (a) where relevant, a Minister of the Government,
- (b) the Environmental Protection Agency,
- (c) the National Parks and Wildlife Service of the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs,

<sup>1</sup>OJ L 26, 28.1.2012, p. 1

<sup>2</sup>OJ L 124, 25.4.2014, p. 1

<sup>3</sup>OJ L 64, 4.3.2006, p. 52

<sup>4</sup>OJ L 20, 26.1.2010, p. 7

<sup>5</sup>OJ L 206, 22.7.1992, p. 7

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 16th May, 2017.*

- (d) Inland Fisheries Ireland,
- (e) the relevant local authority (as defined under section 2 (as amended by the Local Government Reform Act 2014 (No. 1 of 2014) of the Local Government Act 2001 (No. 37 of 2001)),
- (f) the National Roads Authority,
- (g) An Taisce — The National Trust for Ireland,
- (h) any other person having a statutory function or a specialist skill or expertise in or knowledge of a particular relevance that the Minister considers appropriate having regard to the matters referred to in the application;

“Dangerous Substances Directive” means Directive 2006/11/EC of the European Parliament and of the Council of 15 February 2006;

“decision” means a decision by the Minister under Regulation 20;

“EIA” means environmental impact assessment;

“EIA Directive” means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014;

“environmental impact assessment” has a same meaning as in the EIA Directives;

“EIS” means an environmental impact assessment report satisfying the requirements of Article 5.1 of the EU Directive and prepared by competent experts;

“European Site” has the same meaning as in the Habitats Regulations;

“Habitats Regulations” means the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011);

“Natura Impact Statement” has the same meaning as in the Habitats Regulations;

“Principal Act” means the Forestry Act 2014 (No. 31 of 2014);

“proposed treatment area” means the total area in hectares of forest land proposed for aerial fertilisation, but does not include exclusion zones and areas to be untreated;

“publish” means publishing on the internet website of the Minister or in such other manner as the Minister may direct;

“sub-threshold development” means—

- (a) in the case of afforestation, afforestation of less than 50 hectares, or

- (b) in the case of forest road works, the construction of a forest road under 2000 metres in length;

“urban area” for the purposes of Section 19(1)(a) of the Principal Act means an area that comprised a city, town or borough specified in Part 2 of Schedule 5 and in Schedule 6 of the Local Government Act 2001 before the enactment of the Local Government Reform Act 2014.

(2) Subject to paragraph (1), a word or expression that is used in these Regulations and is also used in the EIA Directive or the Dangerous Substances Directive has, in these Regulations, the same meaning as in that Directive.

## PART 2

### CONTROL OF FELLING OF TREES

#### *Application for felling licence*

3. An application for a licence in respect of tree felling shall, in addition to the information specified in section 17(2) of the Principal Act, include—

- (a) the telephone number and e-mail address, if any, of the person applying,
- (b) the telephone number and e-mail address, if any, of the owner of the lands (if different to the person referred to in paragraph (a)),
- (c) the location of the land to which the application relates.

#### *Site notice*

4. (1) Where the Minister has granted a licence for the felling of trees, the person to whom the licence is granted shall erect a notice, in a form determined by the Minister, at the entrance to the land to which the licence relates, advising the public that the tree felling is being carried out or timber extraction is ongoing in accordance with a licence issued by the Minister.

(2) A notice under paragraph (1) shall-

- (a) be clearly legible, affixed on rigid, durable material and secured against damage from bad weather and other causes,
- (b) be maintained in position on the land concerned for so long as the felling of trees is carried out or timber extraction is ongoing or for such longer periods as the Minister may require,
- (c) include the licence number and provide details of where further information may be obtained, and
- (d) immediately be renewed or replaced if the notice is removed or becomes defaced or illegible in the period required under subparagraph (b).

(3) Where the Minister considers that the site notice is not sufficient to comply with the requirements of paragraphs (1) and (2) or does not adequately inform the public, the Minister may require the applicant to erect or fix such further site notice or notices in such a manner and in such terms as he or she may determine.

### PART 3

#### CONTROL OF AFFORESTATION

##### *Application for afforestation licence*

5. (1) An application for a licence in respect of afforestation shall, in addition to the information specified in section 22(2) of the Principal Act, include-

- (a) the telephone number and e-mail address, if any, of the person applying,
- (b) the telephone number and e-mail address, if any, of the owner of the lands (if different to the person referred to in paragraph (a)), and
- (c) where the person applying is a company registered under the Companies Act 2014,
  - (i) the name and the address, telephone number and e-mail address, if any, of the company, and
  - (ii) the registration number of the company.

(2) An application for a licence in respect of afforestation shall be accompanied by—

- (a) an Ordnance Survey map or other map acceptable to the Minister, with the boundary of the land to which the application relates, and all internal plots, where applicable, delineated and shall clearly show the following details—
  - (i) public roads,
  - (ii) forest roads,
  - (iii) aquatic zones,
  - (iv) wayleaves,
  - (v) archaeological sites or features,
  - (vi) hedgerows, and
  - (vii) any other features which may be relevant to the application,



- (b) a plot table, which shall accompany the map, detailing the number of each plot, the area of each plot, and the species of trees to be planted in each plot,
- (c) the information set out in Schedule 1 or an environmental impact statement where the application involves an area of 50 hectares or more, or where the Minister has determined that an environmental impact assessment is necessary, and
- (d) such other information that the Minister considers necessary to issue a licence or determine appropriate conditions.

#### PART 4

#### CONTROL OF FOREST ROAD WORKS

##### *Application for forest road licence*

6. (1) An application for a licence in respect of forest road works shall, in addition to the information specified in section 22(2) of the Principal Act, include—

- (a) the telephone number and e-mail address, if any, of the person applying,
  - (b) the telephone number and e-mail address, if any, of the owner of the lands (if different to the person referred to in paragraph (a)),
  - (c) where the person applying is a company registered under the Companies Act 2014—
    - (i) the name and the address, telephone number and e-mail address, if any, of the company, and
    - (ii) the registration number of the company, and
  - (d) the length of the proposed road.
- (2) An application for a licence in respect of forest road works shall contain—
- (a) an Ordnance Survey map or other map acceptable to the Minister, with the boundary of the land to which the application relates delineated and the route of the proposed road clearly marked and shall clearly show the following details—
    - (i) public roads,
    - (ii) forest roads,
    - (iii) aquatic zones,
    - (iv) wayleaves,

- (v) archaeological sites or features,
  - (vi) hedgerows, and
  - (vii) any other features which may be relevant to the application,
- (b) an environmental impact statement where the application involves forest road works which is 2000 metres or more in length, or where the Minister has determined that an environmental impact assessment is necessary, and
- (c) the information set out in Schedule 1 or such other information that the Minister considers necessary to issue a licence or determine appropriate conditions.

## PART 5

### CONTROL OF AERIAL FERTILISATION OF FORESTS

#### *Application for aerial fertilisation licence*

7. (1) An application for a licence in respect of aerial fertilisation shall, in addition to the information specified in Section 22(2) of the Principal Act, include-

- (a) the telephone number and e-mail address, if any, of the person applying,
- (b) the telephone number and e-mail address, if any, of the owner of the lands proposed for treatment (if different to the person referred to in paragraph (a)),
- (c) where the person applying is a company registered under the Companies Act 2014—
  - (i) the name and the address, telephone number and e-mail address, if any, of the company directors, and
  - (ii) the registration number of the company,
- (d) the proposed treatment area, in hectares, and
- (e) the details of the proposed treatment and the proposed area for treatment including-
  - (i) soil type,
  - (ii) site elevation,
  - (iii) site aspect,
  - (iv) site exposure,

- (v) site vegetation type,
- (vi) the type of fertiliser to be used,
- (vii) the formulation of fertiliser to be used,
- (viii) the concentration of fertiliser to be used, and
- (ix) the proposed fertiliser application rate per treated hectare.

(2) An application for a licence in respect of aerial fertilisation shall be accompanied by—

- (a) An Ordnance Survey map or other map acceptable to the Minister, with the site boundary of the land to which the application relates delineated and shall clearly show the following details—
  - (i) the proposed treatment area,
  - (ii) exclusion zones,
  - (iii) fertiliser storage areas, loading areas and refuelling areas,
  - (iv) aquatic zones and relevant watercourses,
  - (v) abstraction points of sources of water intended for human consumption,
  - (vi) forest and tree stands,
  - (vii) public roads,
  - (viii) forest roads,
  - (ix) dwellings,
  - (x) wayleaves,
  - (xi) archaeological sites or features,
  - (xii) European sites,
  - (xiii) land subject to a natural heritage area order under section 18 of the Wildlife (Amendment) Act 2000 (No. 38 of 2000), and
  - (xiv) any other features which may be relevant to the application,
- (b) the results of a foliar analysis of the trees carried out by an accredited laboratory for such analysis,
- (c) the recommendations from an appropriately qualified person stating the proposed fertiliser prescription based on the foliar analysis, including—

- (i) the type of fertiliser to be used,
  - (ii) the formulation of fertiliser to be used,
  - (iii) the concentration of fertiliser to be used, and
  - (iv) the proposed fertiliser application rate per treated hectare,
- and
- (d) such other information that the Minister considers necessary to issue a licence or determine appropriate conditions.

*Restrictions in respect of aerial fertilisation*

8. (1) Subject to paragraph (2), a person shall not carry out aerial fertilisation in the period from 1 September to 31 March of the following year.

(2) The Minister may, if he or she is satisfied that exceptional circumstances so warrant, grant an aerial fertilisation licence for a period within the period specified in paragraph (1).

(3) A person shall not carry out aerial fertilisation within—

- (a) 100 metres of the abstraction point of a source of water intended for human consumption,
- (b) 50 metres of an aquatic zone,
- (c) (i) 60 metres of a dwelling house, or
- (ii) 30 metres of non-forested land

unless with the written permission of the owner or occupier of the dwelling or land as the case may be,

- (d) 60 metres of a European Site unless with the written permission of the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs,
- (e) 15 metres of a road, or
- (f) 20 metres of a recorded monument or place to which section 12 of the National Monuments (Amendment) Act 1994 (No. 17 of 1994) refers.

(4) A person engaged in aerial fertilisation shall not, in respect of the application of fertiliser exceed the parameters set out in Schedule 2.

PART 6  
CONSULTATION

*Notice to consultation body*

9. (1) Where the Minister receives an application under Regulations 5, 6 or 7 and it appears to him or her that the proposed development—

- (a) may cause an adverse impact on the environment,
- (b) may have a significant impact on—
  - (i) human health,
  - (ii) nature conservation, or
  - (iii) an archaeological site or feature,
- (c) is situated in an area of special amenity under an order made under section 202 of the Act of 2000, or
- (d) is located in or likely to have a significant effect on—
  - (i) a European site,
  - (ii) land established or recognised as a nature reserve under sections 15 or 16 of the Act of 1976, as amended by sections 26 and 27 of the Wildlife (Amendment) Act, 2000 (No. 38 of 2000),
  - (iii) land designated as a refuge for flora or fauna under section 17 of the Act of 1976,
  - (iv) an area the subject of a notice under section 16(2)(b) of the Act of 1976,
  - (v) land subject to a natural heritage area order under section 18 of the Wildlife (Amendment) Act 2000, or
  - (vi) compliance with the quality standards set out in the European Communities Environmental Objectives (Surface Water) Regulations 2009 (S.I. No. 272 of 2009)

the Minister shall consult with any consultation body that the Minister believes may have an opinion on the proposed development.

- (2) A notice issued under paragraph (1) shall include:
  - (a) the reference number of the application for the licence

- (b) details of the application,
- (c) the EIS, if any,
- (d) the Natura Impact Statement, if any,
- (e) a map of the site on which the development is proposed, and
- (f) any other information that the Minister considers relevant.

(3) A consultation body to which a notice under paragraph (1) is sent may make a submission or observation on the application in writing to the Minister within 30 days of the issue of the notice or whatever longer timeframe is set out in the notice and, if additional information is received by the Minister and forwarded to the consultation body, within 30 days from the date on which the last information is forwarded.

(4) Where a consultation body to whom a notice or further information is sent under this Regulation fails to make a submission or observation within 30 days from the date of the notice or such longer timeframe set out in the notice or further information, the Minister may make a decision without further communication to that body.

(5) Without prejudice to paragraph (1), the Minister may consult with any other person or body, not being a consultation body, that he or she considers appropriate.

*Public consultation*

10. (1) Where the Minister receives an application under Regulations 3, 5, 6 or 7, he or she shall, before making a decision on the matter, publish a notice of the application in a manner determined by the Minister.

- (2) A notice under paragraph (1) shall state—
  - (a) the reference number of the application,
  - (b) the location, townland and county to which the application relates,
  - (c) the nature and extent of the proposed development,
  - (d) the nature of possible decisions or, where there is one, the draft decision,
  - (e) that any person may make a submission or observation to the Minister within 30 days from the date of the notice or whatever longer timeframe appears on the notice,

- (f) where and when the application and documents may be viewed,
- (g) any other details of public participation, and
- (h) any other information that the Minister considers relevant.

(3) The Minister may make available for inspection to the public free of charge, or for purchase at a fee not exceeding the reasonable cost of doing so, the application, a map of the proposed development and any other information or documentation relevant to the application that the Minister has in his or her possession other than personal data within the meaning of the Data Protection Acts 1988 and 2003 where the data subject does not consent to the release of his or her personal data.

(4) The public may make submissions or observations in writing concerning the application to the Minister within 30 days from the date of publication of the notice or whatever longer timeframe is set out in the notice, and where additional information is published, at least 30 days from the date of the publication of that information.

*Site Notice in respect of afforestation and forest road works*

11. (1) Where an application involves—

- (a) afforestation, or
- (b) forest road works

the applicant shall, before the making of the application, erect a notice in a form determined by the Minister, at the entrance from the public road to the land to which the application relates or, where no entrance exists, at the point where it is proposed to create an entrance, so as to be easily visible and legible by persons using the public road, and shall not be obscured or concealed at any time.

(2) A notice under paragraph (1) shall—

- (a) be clearly legible, affixed on rigid, durable material and secured against damage from bad weather and other causes,
- (b) be maintained in position on the land concerned for a period of not less than 5 weeks from the date of the application and shall be renewed or replaced if it is removed or becomes defaced or illegible within that period, and
- (c) include details of where further information may be obtained.

(3) Where the Minister considers that the site notice is not sufficient to comply with the requirements of paragraphs (1) and (2) or does not adequately inform the public, the Minister may require the applicant to erect or fix such further site notice or notices in such a manner and in such terms as he or she may determine.

## PART 7

## ENVIRONMENTAL IMPACT ASSESSMENT

*Definitions*

12. In this Part, “development” means afforestation or forest road works.

*Environmental impact assessment of forestry development*

13. (1) The Minister shall, as part of his or her consideration of the application involving an environmental impact assessment in accordance with paragraph (2), ensure that before a decision is given, projects likely to have significant effects on the environment by virtue, *inter alia*, of their nature, size or location are made subject to an environmental impact assessment.

(2) The Minister shall ensure that an environmental impact assessment is carried out in respect of an application for a licence for—

- (a) afforestation which would involve an area of 50 hectares or more,
- (b) forest road works which would involve a length of 2000 metres or more,
- (c) afforestation which does not exceed an area of 50 hectares but which the Minister considers likely to have significant effects on the environment taking into account the criteria set out in Schedule 3,
- (d) forest road works which does not exceed a length of 2000 metres but which the Minister considers likely to have significant effects on the environment taking into account the criteria set out in Schedule 3.

(3) A person shall—

- (a) in respect of development referred to in paragraphs (2)(a) or (2)(b), submit an EIS with his or her application, or
- (b) in respect of development referred to in paragraph (2)(c) or (2)(d), submit an EIS on request from the Minister.

(4) The Minister shall require the production by the applicant of any additional or supplemental information that the Minister considers necessary to enable the Minister to complete an assessment under paragraph (2).

(5) Where the Minister determines that an EIS is necessary under these Regulations, the applicant shall submit an EIS and ensure that the EIS contains at least the information set out in Schedule 4 and any other information requested by the Minister.

(6) In advance of submitting an EIS, the person applying or a person intending to apply for a licence may seek the opinion of the Minister on the information that is to be supplied in the EIS.



(7) The Minister shall, before giving an opinion to the person who made the request under paragraph (6), consult the relevant consultation bodies before giving his or her opinion.

(8) The consultation body may, within 30 days of notification to it under paragraph (7), or whatever longer timeframe as the Minister may determine give its comments to the Minister.

(9) Where the consultation body fails to submit any comments within the timeframe referred to, the Minister may give his or her opinion without further communication to that body.

(10) Nothing in this Regulation shall preclude the Minister from, at any stage—

- (a) rejecting an EIS, or
- (b) seeking further information.

(11) The Minister shall, within 30 days of the expiry of the period referred to in paragraph (8), give a written opinion to the person who made the request under paragraph (6).

(12) The Minister shall consider the content of the EIS (and any other material including maps or plans) submitted as part of the application and determine whether these items adequately identify, describe and assess the direct and indirect effects that the proposed development will have or is likely to have on the environment. If the EIS (or other material) is, in the opinion of the Minister, inadequate, the Minister shall serve a notice which sets out the manner in which the information is inadequate and require the applicant to submit further information to remedy these inadequacies.

(13) The Minister shall in advance of completing an environmental impact assessment, consult public bodies and the public in accordance with Part 6.

(14) The Minister, in carrying out an environmental impact assessment, shall have regard to the following matters—

- (a) the particulars submitted with the application for a licence including the EIS and any other material (including maps and plans),
- (b) any additional material submitted in response to a request for further information, if any, pursuant to paragraphs (4) and (5),
- (c) any submissions or observations made in relation to the effects on the environment of the proposed development including those made by consultation bodies or the public, and
- (d) the views, if any, furnished by other Member States pursuant to Regulation 14.

(15) The Minister, in carrying out an environmental impact assessment, shall have regard to, and may adopt in whole or in part, any reports prepared by his or her officials or by consultants, experts or other advisors.

*Where development affects another Member State*

14. Where the Minister considers that a proposed development is likely to have significant effects on the environment in a Member State other than the State, or where a Member State other than the State considers that the development is likely to have such effects and so requests, the Minister shall, as soon as possible, send to the Member State—

- (a) a description of the proposed development and any available information on its possible effects on the environment in that Member State including the EIS or Natura Impact Statement, if any, and
- (b) relevant information about the nature of the decision that may be taken in respect of the proposed development,

and shall allow that Member State 30 days or whatever longer timeframe as the Minister may determine to make submissions or observations on the proposed development.

*Application of Regulations to public of Member State*

15. (1) Where Regulation 14 applies the Minister shall apply Regulation 10 in respect of the public of that Member State with any necessary modifications.

(2) Where Regulation 14 applies and a decision is subsequently made to approve the application, Regulation 17 shall apply in respect of the public of that Member State with any necessary modifications.

*EIS: exemption*

16. (1) At the request of a person applying or a person intending to apply for a licence for afforestation or forest road works, the Minister may, following—

- (a) consideration of whether another form of assessment would be suitable,
- (b) consultation with the Ministers for Housing, Planning, Community and Local Government and Communications, Climate Action and Environment,
- (c) publishing the reasons for granting the exemption, together with information in relation to the exemption, including, where another form of assessment has been carried out, information in relation to that assessment, and
- (d) informing the European Commission,

exempt the development, in whole or in part, from the requirement to submit an EIS.

(2) An exemption shall not be granted in respect of a proposed development if a Member State other than the State, having been informed about the proposed development and its likely effects on the environment in the Member State, has indicated to the Minister that it intends to furnish a submission or observation.

(3) Where the Minister grants an exemption, the Minister may impose such conditions as he or she considers necessary in the exemption.

*Review of decision*

17. (1) The High Court shall be the court of law for the purposes of Article 11 of the EIA Directive.

(2) An application to review a decision shall be made by way of application for judicial review under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) as amended.

(3) The High Court shall not grant leave in such an application unless the person making the application—

(a) has a sufficient interest in the matter,

(b) is a consultation body, or

(c) is a body or organisation (other than a State authority, a public authority or governmental body or agency) the aims or objectives of which relate to the promotion of environmental protection, that has, during the period of 12 months preceding the date of the application, pursued those aims or objectives.

(4) In this Regulation—

“decision” means—

(a) any decision or purported decision made or purportedly made,

(b) any action taken or purportedly taken, or

(c) any failure to take any action.

“sufficient interest” is not limited to an interest in land or other financial interest.

(5) The Court shall, in determining either an application for leave for judicial review, or an application for judicial review on foot of such leave, act as expeditiously as possible consistent with the administration of justice.

*Costs in civil proceedings*

18. Section 50B (inserted by section 33 of the Planning and Development (Amendment) Act 2010 (No. 30 of 2010)) of the Act of 2000 applies to this Part.

## PART 8

## APPROPRIATE ASSESSMENT

*Protection of European sites*

19. (1) Where the Minister receives an application for a licence under sections 17 or 22 of the Principal Act, which is not directly connected with or necessary to the management of the site as a European Site, the Minister shall assess if the development, individually or in combination with other plans or projects is likely to have a significant effect on the European site.

(2) Subject to paragraph (8), if following an assessment in accordance with paragraph (1), in the opinion of the Minister the proposed development is likely to have a significant effect on a European site, either alone or in combination with other plans or projects or the Minister is unable to determine the likely effects of the proposed development on a European site, the Minister shall require the applicant to submit a Natura Impact Statement.

(3) Where the Minister decides that a Natura Impact Statement does not contain the necessary information, the Minister shall require the applicant to submit such further information as may be necessary.

(4) The Minister shall, on receipt of a Natura Impact Statement and further information where required under paragraph (3), carry out an appropriate assessment of the implications of the proposal for the European site either alone or in combination with other plans or projects in view of that site's conservation objectives.

(5) Having regard to the conclusions of the assessment under paragraph (4), the Minister may grant a licence or attach conditions to a licence to protect the integrity of the European site, only after having ascertained that the proposed development will not adversely affect the integrity of the site.

(6) If in the opinion of the Minister—

- (a) a condition of a licence has been breached and such breach is likely to have, or is having, a significant effect on a European site, or
- (b) the continuation of a licence is likely to have, or is having, a significant effect on a European site,

the Minister may revoke the licence or vary such conditions as he or she deems appropriate.

(7) Where the Minister revokes a licence or varies the conditions of a licence pursuant to paragraph (6), he or she shall

- (a) notify the holder of the licence in writing of the decision,
- (b) give reasons for the decision to revoke the licence or vary the conditions of the licence, and

(c) inform the person of the procedure for appealing the decision.

(8) Where the Minister is of the view that environmental impact assessment is required under Part 7 for the development, the Minister may waive an obligation under this Regulation provided the information relevant to the appropriate assessment and the relevant conclusions with regard to it must be readily identifiable in the environmental impact assessment report.

## PART 9

### DECISIONS

#### *Decision of Minister on application*

20. (1) The Minister, after expiration of the consultation periods referred to in Regulations 9 and 10 and having regard to the following-

- (a) the environmental impact assessment carried out in accordance with Part 7,
- (b) the appropriate assessment carried out in accordance with Part 8,
- (c) information relating to the application furnished by the applicant,
- (d) written submission or observation received under Part 6,
- (e) any guidelines, codes of practice and standard for good forest practice, and
- (f) any other matter that the Minister considers relevant, including the capacity of the applicant to carry out the development

may, in whole or in part, grant a licence.

(2) The Minister may refuse an application if, in his or her opinion—

- (a) the application is incomplete in any material detail, or
- (b) the EIS or Natura Impact Statement is inadequate.

(3) The Minister shall refuse an application if, in his or her opinion, the proposed development—

- (a) is likely to have an adverse impact on human health, or
- (b) is likely to have significant adverse impact on—
  - (i) animal or plant health,
  - (ii) water quality,
  - (iii) an archaeological, historical or cultural site or feature,
  - (iv) an area of special amenity,

- (v) a European site, or
- (vi) nature conservation.

*Notification of decision*

21. (1) The Minister shall notify the applicant in writing and, subject to paragraph (2), any person who made a submission or observation under Regulation 9 and 10 of—

- (a) the decision to grant or refuse the application for a licence and, in the case of a decision to grant a licence, any conditions attached to the licence,
- (b) the main reasons and considerations on which the decision to grant or refuse the licence is based, and where conditions are attached to any licence, the reasons for the conditions,
- (c) in relation to applications to which Regulation 13 applies, the Minister's evaluation of the application's direct and indirect effects on the following-
  - (i) human beings, flora and fauna,
  - (ii) soil, water, air, climate and the landscape,
  - (iii) material assets and the cultural heritage, and
  - (iv) the interaction among the factors mentioned in paragraphs (i), (ii) and (iii),
- (d) in relation to applications to which Regulation 13 applies, reports referred to in Regulation 13(15) to which the Minister had regard in completing the environmental impact assessment,
- (e) a description, where necessary, of the main measures to avoid, reduce, and if possible, offset the major adverse effects of the development, and
- (f) the procedure for seeking a review under Regulation 17 of the decision.

(2) The Minister may dispense with the requirement to notify persons other than the applicant under paragraph (1) where—

- (a) a large number of submissions or observations are made as part of an organised campaign,
- (b) the submission or observation made is, in the opinion of the Minister, frivolous or vexatious, or
- (c) it is not possible to readily ascertain the name and address of any person who made a submission or observation.

(3) The Minister shall publish the decision and make available to the public the matters referred to in paragraph (1).

## PART 10

### MISCELLANEOUS

#### *Penal provisions*

22. Regulations 4 and 8 are penal provisions for the purposes of the Act.

#### *Revocation*

23. (1) The following Regulations are revoked-

- (a) European Communities (Forest Consent and Assessment) Regulations 2010 (S.I. No. 558 of 2010),
- (b) European Communities (Aerial Fertilisation) (Forestry) Regulations 2012 (S.I. No. 125 of 2012), and
- (c) European Communities (Forest Consent and Assessment) (Amendment) Regulations 2012 (S.I. No. 442 of 2012)

(2) A consent issued under a Regulation mentioned in paragraph (1) shall remain in force as if issued under the Act.

(3) The reference to Forest Consent Regulations in section 2 of the Forestry Act 2014, shall be construed as a reference to these Regulations.

SCHEDULE 1

*Regulations 5 and 6*

INFORMATION TO BE PROVIDED BY THE APPLICANT FOR  
AFFORESTATION OR FOREST ROAD LICENCE

1. A description of the project, including in particular:
  - (a) a description of the physical characteristics of the whole project and, where relevant, of demolition works;
  - (b) a description of the location of the project, with particular regard to the environmental sensitivity of geographical areas likely to be affected.
2. A description of the aspects of the environment likely to be significantly affected by the project.
3. A description of any likely significant effects, to the extent of the information available on such effects, of the project on the environment resulting from:
  - (a) the expected residues and emissions and the production of waste, where relevant;
  - (b) the use of natural resources, in particular soil, land, water and biodiversity.
4. The criteria of Annex III shall be taken into account, where relevant, when compiling the information in accordance with points 1 to 3.



## SCHEDULE 2

*Regulation 8*REQUIREMENTS AS TO THE MANNER OF APPLICATION OF  
FERTILISER FROM THE AIR

The application of fertiliser shall be limited to the elements, formulations, concentrations and application rates contained in the following table:

<b>Element</b>	<b>Acceptable formulations</b>	<b>Maximum permissible concentration of the element</b>	<b>Maximum permissible application rate per hectare of treatment area</b>
Phosphorus (P)	Granulated Rock Phosphate	12%	350 kg
Nitrogen (N)	Granulated Urea	46%	350 kg
Potassium (K)	Muriate of Potash	50%	250 kg

## SCHEDULE 3

*Regulation 13*CRITERIA TO DETERMINE IF A SUB-THRESHOLD PROJECT  
SHOULD BE SUBJECT TO AN ENVIRONMENTAL IMPACT  
ASSESSMENT

## 1. Characteristics of projects

The characteristics of projects must be considered with particular regard to:

- (a) the size and design of the whole project;
- (b) cumulation with other existing and approved projects;
- (c) the use of natural resources, in particular land, soil, water and biodiversity;
- (d) the production of waste;
- (e) pollution and nuisances;
- (f) the risk of accidents, and disasters which are relevant to the project concerned, including those caused by climate change, in accordance with scientific knowledge;
- (g) the risks to human health;

## 2. Location of projects

The environmental sensitivity of geographical areas likely to be affected by projects must be considered, with particular regard to:

- (a) the existing and approved land use;
- (b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground;
- (c) the absorption capacity of the natural environment, paying particular attention to the following areas:
  - (i) wetlands, riparian areas, river mouths;
  - (ii) coastal zones and the marine environment;
  - (iii) mountain and forest areas;
  - (iv) nature reserves and parks;

- (v) areas classified or protected under national legislation; Natura 2000 areas designated by Member States pursuant to Council Directive 92/43/EEC<sup>1</sup> and Directive 2009/147/EC<sup>2</sup>;
- (vi) areas in which there has already been a failure to meet the environmental quality standards, laid down in Union legislation and relevant to the project, or in which it is considered that there is such a failure;
- (vii) densely populated areas;
- (viii) landscapes and sites of historical, cultural or archaeological significance.

### 3. Type and characteristics of the potential impact

The likely significant effects of projects on the environment must be considered in relation to criteria set out in points 1 and 2 of this Schedule with regard to the impact of the project on the factors specified in Article 3(1) of the EIA Directive, taking into account:

- (a) the magnitude and spatial extent of the impact;
- (b) the nature of the impact;
- (c) the transboundary nature of the impact;
- (d) the intensity and complexity of the impact;
- (e) the probability of the impact.
- (f) the expected onset, duration, frequency and reversibility of the impact;
- (g) the cumulation of the impact with the impact of other existing and approved projects;
- (h) the possibility of effectively reducing the impact.

<sup>1</sup>OJ L 206, 22.07.1992, p. 7

<sup>2</sup>OJ L 207, 26.1.2010, p. 7

## SCHEDULE 4

*Regulation 13*

## INFORMATION TO BE CONTAINED IN AN EIS

1. (a) A description of the project, including in particular:
  - (i) a description of the physical characteristics of the whole project and, where relevant, of demolition works;
  - (ii) a description of the location of the project, with particular regard to the environmental sensitivity of geographical areas likely to be affected.
- (b) A description of the aspects of the environment likely to be significantly affected by the project.
- (c) A description of any likely significant effects, to the extent of the information available on such effects, of the project on the environment resulting from:
  - (i) the expected residues and emissions and the production of waste, where relevant;
  - (ii) the use of natural resources, in particular soil, land, water and biodiversity;
- (d) The criteria of Schedule 3 shall be taken into account, where relevant, when compiling the information in accordance with points (a) to (c):
2. The data necessary to identify and assess the main effects which that development is likely to have on the environment.
3. (a) A description of the likely significant effects, direct and indirect, on the environment of the development, explained by reference to its possible impact on the following:
  - (i) population and human health;
  - (ii) biodiversity, with particular attention to species and habitats protected under the Directive 2009/147/EC and the Directive 92/43/EEC
  - (iii) land;
  - (iv) soil;
  - (v) water;
  - (vi) air;

- (vii) climate;
  - (viii) material assets;
  - (ix) cultural heritage.
  - (x) the landscape;
  - (xi) the interaction between any of the foregoing.
- (b) The effects referred to in paragraph (a) on the factors set out therein shall include the expected effects deriving from the vulnerability of the project to risks of major accidents and/or disasters that are relevant to the project concerned.

4. Where significant adverse effects are identified with respect to any of the foregoing, a description of the measures envisaged in order to avoid, reduce, and, if possible, remedy those effects.

5. Further information, by way of explanation or amplification of the information referred to in paragraph 1, on the following matters:

- (a) the physical characteristics of the proposed development, and the land use requirements during the construction and operational phases;
- (b) the main characteristics of the production processes proposed, including the nature and quantity of the materials to be used;
- (c) the estimated type and quantity of expected residues and emissions (including pollutants of surface water and groundwater, air, soil and substrata, noise, vibration, light, heat and radiation) resulting from the proposed development when in operation;
- (d) (in outline) the main alternatives (if any) studied by the applicant, appellant or authority and an indication of the main reasons for choosing the development proposed, taking into account the environmental effects;
- (e) the likely significant direct and indirect effects (including secondary, cumulative, short, medium and long term, permanent, temporary, positive and negative effects) on the environment of the proposed development which may result from the following:
  - (i) the use of natural resources;
  - (ii) the emission of pollutants, the creation of nuisances, and the elimination of waste.
- (f) the forecasting methods used to assess any effects on the environment about which information is given under subparagraph (e);

- (g) any difficulties, such as technical deficiencies or lack of knowledge, encountered in compiling any information mentioned in this paragraph.



GIVEN under my Official Seal,  
11 May 2017.

MICHAEL CREED,  
Minister for Agriculture, Food and the Marine.

EXPLANATORY NOTE

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

The purpose of these Regulations is to provide detailed rules for the control of forestry activities in the areas of felling, afforestation, forest road works and aerial fertilisation of forests as provided for in the Forestry Act, 2014. The Regulations also give further effect to the European Directives relating to Environmental Impact Assessment.

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