

Planning and Development Regulations 2006

Schedule of amendments to Planning and Development Regulations 2001

Article number	Article being amended in 2001 Regulations	
Article 1		Citation and commencement.
Article 2		Interpretation.
Article 3	Article 3	Consequent on enactment of new Major Accident Regulations in 2006
Article 4	Article 7	Amended reference to EPA Act, consequent on Protection of the Environment Act 2003.
Article 5	Substitution of Article 13	To substitute correct Ministers' titles following on reorganisation of Government Departments in mid 2002 and also to replace "Bord Fáilte Eireann" with correct title of "Fáilte Ireland", to replace "Aer Rianta" with "Dublin Airport Authority" and to replace "the relevant health board" with "the Health Service Executive".
Article 6	Substitution of Article 14	To add the Minister for the Environment, Heritage and Local Government as a consultee for the purpose of section 20 of the Act.
Article 7	Substitution of Article 15	To substitute correct Ministers' titles following on reorganisation of Government Departments in mid 2002 and also to replace "Bord Fáilte Eireann" with correct title of "Fáilte Ireland", to replace "Aer Rianta" with "Dublin Airport Authority" and to replace "the relevant health board" with "the Health Service Executive".
Article 8	Substitution of Part 4 of the 2001 Regulations	This substitutes all of Part 4 (Articles 16 to 47) of the 2001 Regulations. Specifically, it makes the following amendments:

	Article 18(1)(d)	Article 18(1)(d) is now amended by the insertion of “a brief description of” before “the nature and extent” - this is to prevent invalidation on the grounds that a detailed description was not included in the newspaper notice. The Directions for completing the site notice and the new planning application form (Form 2. of Schedule 3) have been similarly amended. Also paragraph.(iv) is amended to refer to pollution prevention and control licenses (following the change in the name of those licenses). Also, it has been decided to retain paragraph. (v) relating to SDZs.
	Article 18(1)(e)	Art 18(1)(e) is being amended as a consequence of Article 3(4) of Directive 2003/35/EC (providing for public participation in respect of the drawing up of plans and programmes relating to the environment and access to justice) which amends Art. 6(2) of Directive 85/337/EC, as amended, ("the EIA Directive") to provide that "an indication of the times and places" at which the relevant information on proposed developments requiring EIA will be available to the public is one of matters about the proposed development that the public must be informed about. It is proposed to implement this, in so far as the times are concerned, by requiring that the newspaper notice and site notice refer to the fact that the planning application may be inspected during the public opening hours of the planning authority.
	Article 18	No longer proposed to allow newspaper notices to be grouped under a banner heading in view of many difficulties pointed out by planning authorities.
	Article 19(4)	Amended to clarify that a yellow ‘repeat’ site notice need not be used unless an earlier valid application has been made. Also amended by reference to “first mentioned” application to clarify that where there is a second application within 6 months of a previous application, but not necessarily the first application ever on that site, it must be on yellow background
	Article 20	Amended to require applicant to remove site notice after notification of planning authority decision. This is intended to encourage the practice of removing such notices to

		avoid confusion in cases where there are subsequent applications.
	Article 22(1)	Art 22(1) amended to prescribe a standard application form for use throughout the country.
	Article 22(2)(a)	Amended to allow a copy of the page of the newspaper (including the date and title of the paper) to be submitted, to facilitate electronic submission of applications.
	Article 22(2)(b)	Amended to allow for locations to be of such scale as may be agreed with the planning authority prior to the submission of the application. Amended to allow the location of the site notice to be indicated on the location map submitted, removing previous requirement to supply separate plan.
	Article 22(2)(c)	New requirement to submit details of suitability of site for on-site waste water treatment, where this is proposed. The paragraph previously contained a requirement to supply a plan showing the location of the site notice: this has been in view of the amendment to Art 22(2)(b) above
	Article 22(2)(d)	The requirement to submit a schedule of the required maps and drawings is removed from Art. 22(2)(d).
	Article 22(2)(g)	New requirement for letter of consent from the owner of the site where the applicant is not the legal owner.
	Article 22(3)	New sub-article (3) inserted to clarify that in accordance with section 248 of the Act planning authorities may consent to the receipt of the application in electronic form.
	Article 22(4)	Formerly Article 22(3)
	Article 22(5)	New sub-article (5) inserted to provide that floor plans need not be provided for a building that is to be demolished (except protected structure or proposed protected

		structure).
	Art. 22A - new	Provides that, in addition to prescribed information, the planning authority may require additional information to be submitted with the application – however, failure to provide this information will not be a cause of invalidation.
	Article 23(1)(a)	Amended to allow site or layout plans to be of a scale other than 1:500, as may be agreed by the planning authority.
	Article 23(1)(c)	Retain temporary local benchmark but add "whichever is most appropriate"
	Article 23(1)(d)	Return to requirement for all elevations (not just front) to show main features of contiguous buildings
	Article 23(1)(h)	The North point is still required to be indicated on all maps and plans apart from OSI maps as it is not indicated on such maps, although they are oriented north.
	Article 23(2)	Amended to remove references to areas specified as architectural conservation areas in drafts of proposed development plans or proposed variations of development plans.
	Article 23(3)	New article 23(3) inserted to allow planning authority to require a transport assessment. Articles 23(3) and (4) are renumbered (4) and (5).
	Article 23(5)	(Formerly Art 23(4)). Amended to allow the planning authority to request other types of additional material necessary to assess an application, e.g. photographs. Also amended to allow a request for a scale model not only of the proposed development, but of land and buildings in the vicinity.
	Article 26(1) and (2)	Amended to remove requirement to stamp all documents with date of receipt of planning application before checked for validity. Now requirement is to stamp documents after application has been validated.

	Article 26(4)	Art. 26(4) has been amended so that if site visit shows that information supplied in application is untrue/incomplete application may be invalidated at that stage. Also amended to allow invalidation on the grounds that Art. 20 (maintaining site notice in place for 5 weeks, is not complied with).
	Article 26(5)(c)	Amended to require planning authorities to enter only an indication that an invalid application was made onto the register, as opposed to details of the application.
	Art 27	Amended to provide that list of planning applications received in a particular week be published within 5 working days of the end of that week, rather than 3 working days, as was previous position.
	Article 27(2)	Amended as a consequence of Article 3(4) of Directive 2003/35/EC which amends Art. 6(2) of Directive 85/337/EC, as amended, ("the EIA Directive") to provide that "the nature of possible decisions or, where there is one, the draft decision" is one of the matters about the proposed development that the public must be informed about. It is proposed to implement this by requiring that the weekly planning list that must be published under Art 27, contain a banner headline outlining the possible decisions on the planning application i.e. granted, refused, granted with conditions.
	Article 28(1)	List of prescribed bodies updated to reflect name changes since the 2001 regulations and to include some new bodies.
	Article 28(2)	Art 28(2) has been amended to require the planning authorities to send copies of location maps, in addition to the planning applications, to the prescribed bodies. The sub-article has also been amended to provide that any submission received from a prescribed body before the planning authority makes its decision, must be taken into account by the planning authority. It should be noted that sub-article (5) is not amended - planning authority may proceed to makes its decision after 5 weeks.

	Article 28(3)	New sub-article (3) added to provide that planning authority must give planning documents, other than application form and location map, to a prescribed body on request.
	Article 29(3)	Article 29(3) has been amended (by addition of words “under this article”) to clarify that it is only submissions from persons and bodies other than the prescribed bodies that are returned after the 5 week deadline, underlining that late submissions may be accepted from prescribed bodies (although planning authorities may make the planning decision as soon as the 5 weeks has elapsed).
	Article 29A	A new Art 29A has been inserted to allow planning authorities to accept third party submissions, documents etc, which are required under the Regulations, on the day after the expiration of the prescribed period, where the last day of that prescribed period is a public holiday/day on which the offices of the planning authority are closed. An Bord Pleanála has the same power.
	Article 31	Amended (new para (g)) to require that notification of planning decision to applicant state that that in making a decision, the planning authority takes submissions or observations into account – this is being done for consistency with list of planning decisions – see Article 32 below.
	Article 32(1)	Amended to provide that list of planning decisions made in a particular week be published within 5 working days of the end of that week, rather than 3 working days, as was previous position.
	Article 32(2)	Art 32(2) is being amended as a consequence of Article 3(6) of Directive 2003/35/EC which amends Art.9(1) of Directive 85/337/EC, as amended, ("the EIA Directive") to provide that the notification to the public of decisions of proposed developments requiring EIA should include reference to the public participation process and that fact that the concerns and opinions expressed by the public have been examined.

		Accordingly it will now be required that the weekly list of planning decisions required under Article 32 of the Regs have a banner heading stating that all submissions or observations on a planning application are taken into account by the planning authority before deciding on the planning application.
	Article 33(2) - deleted	This article, which prevented planning authorities from seeking further information on matters covered Art 18 (newspaper notice), Art 19(1)(a) (site notice) and Art. 22 (matters now covered in the application form) is being deleted. It can often happen that the application is valid on paper, but further information is required following a site inspection.
	Article 33(4) - now Article 33(3)	Amended to allow withdrawal of application where clarification of further information (as well as further information itself) under the now Art 33(2) - was Art. 33(3) - is not supplied within 6 months. Also amended to allow planning authority to agree a longer period for receipt of further information, up to an additional 3 months (intended to cover EIS applications where collation of further information might take longer than 6 months).
	Article 34	Amended to provide that an applicant – when invited by the planning authority to submit revised plans within 8 weeks, may indicate, still within the first 8 weeks whether he/she intends to avail of that opportunity and consent to extension of time for the making of a decision.
	Articles 35(1)(a) and (d)(ii)	Amended to allow planning authority to specify a deadline for the publication of the newspaper notice and its submission to the planning authority and that the notice is to make reference to the fact that the further information or revised plans may be inspected or purchased at the office of the planning authority "during its public opening hours". Also, a new 2-week deadline (5 weeks in case of application accompanied by EIS) for making of submissions on further information is being introduced. However the person or prescribed body may make a submissions from the time they become aware of the significant further information until 2 weeks after receipt of the notices by the planning authority.

	Article 35(1)(b)	New requirement for a site notice regarding Further Information/Revised Plans and its submission to the planning authority.
	Article 35(2)	Amended to allow planning authority to require such further site notices as they deem fit where they consider original notice did not adequately inform the public - this sub-article previously only referred to newspaper notices.
	Article 35(3)	Also new Art 35(3) inserted to apply the Art 19 requirements as to site notice for planning applications (visibility, additional notices, etc) to site notice on further information.
	Article 35(4)	New sub-article to clarify that additional period given in the Act for considering applications where there is further information (4 weeks normally but 8 weeks in case of applications accompanied by EIS) does not commence, in cases where there is significant additional data which must be re-advertised, until applicant has submitted to planning authority copies of the newspaper and site notices as required above.
	Article 35(5)	A new sub-article has been added to require planning authorities to acknowledge receipt of submissions received on further information using a standard form: this is to ensure the rights of the persons concerned to appeal the decision to An Bord Pleanála.
	Article 35(6)	A new sub-article to provide that the planning authority may, with the consent of the person concerned send notice in electronic form and may consent to the submission of observations in electronic form.
	Article 36	New sub-articles (2)-(5) added to clarify that persons can make submissions to planning authorities, within 4 weeks, on foot of notice that the planning authority is considering deciding to grant permission in a case where the development would materially contravene the development plan. Also, to provide for the acknowledgement of such submissions/observations (for the making of appeals).

	Article 37	A new sub-article (2) has been added to require planning authorities to inform persons or bodies who made a submission on a planning application when that application is withdrawn.
	Article 39	This article has been amended to require planning authorities to submit information to the CSO, as well as to the Minister, on request.
	Article 42	Amended to make reference to prescribed fee.
Article 9	Article 52	This article has been amended by the replacement of "Bord Fáilte Eireann" with "Fáilte Ireland.
Article 10	Article 55	Amendment regarding Minister's title and Fáilte Ireland.
Article 11	Article 64	Amended to prescribe the new nominating bodies for An Bord Pleanála in accordance with the provisions of Section 106 of the Planning and Development Act 2000 as amended by the Planning and Development (Strategic Infrastructure) Act 2006.
Article 12	Article 67	Expands the definition of 'relevant persons' in the case of an oral hearing to include applicants and observers in relation to strategic infrastructure development.
Article 13	Article 68	Article 68 is amended to clarify that a copy of an appeal to ABP may be purchased as well as inspected at the offices of the planning authority.
Article 14	Substitution of Article 72	Sub-article (1) is amended to require ABP to expand their weekly lists of appeals received and determined to include details regarding applications for approval of local authority own development requiring EIS (this is done in any case by the Board) to satisfy the requirements of Directive 2003/35/EC. Also amended, at ABP request to include reference to roads projects under S.215.

		<p>Sub-article (2) – weekly list of appeals received by ABP – is amended to require that the list should indicate the possible decisions that can be made (granted with or without conditions or refused) to comply with Directive 2003/35/EC.</p> <p>Sub-article (3) – weekly list of appeals determined by ABP – is amended to require that the list should indicate that in making decisions on appeals, ABP has regard to submissions or observations received. This is to comply with the requirement in Directive 2003/35/EC that when decisions are published on proposals involving EIS, these should include information on the public participation process.</p> <p>A new sub-article (6) is inserted to set out the requirements for the weekly publication of applications for approval of local authority own development requiring EIS: among other things the list must indicate the possible decisions that can be made (approved with or without conditions or refused).</p> <p>A new sub-article (7) is inserted to set out the requirements for the weekly publication of decisions on applications for approval of local authority own development requiring EIS: among other things the list must indicate that in making decisions on such applications ABP has regard to submissions or observations received.</p> <p>The former sub-articles (7) and (8) become (9) and (10).</p>
Article 15	Article 74(2)	Amended (new paragraph. (j)) to require that the Board must include a statement that it has taken account of submissions and observations made when notifying parties to appeals or referrals or any person who made submissions, similar to provision in Art 72 above.
Article 16	Article 76	Amended to remove requirement on ABP to send documentation to every relevant person in the case of an oral hearing. Instead the material will be made available for inspection.

Article 17.	Article 81	Article 81 is amended by the deletion of the reference to an area specified as an architectural conservation area in a draft of a proposed development plan or a proposed variation of a development plan. It is also amended to provide that plans and particulars of proposed local authority development will be available for purchase as well as inspection, and the amendment of the time period during which the material will be available for inspection from “not less than 4 weeks” to “not less than 6 weeks”.
Article 18	Article 82(3) and (4)	List of prescribed bodies updated to reflect name changes since the 2001 regulations and to include some new bodies.
Article 19	Article 83	Amended to provide that documentation in relation to proposed local authority development will be available for purchase as well as inspection.
Article 20	Article 87	Amended by the deletion of the reference to an area specified as an architectural conservation area in a draft of a proposed development plan or a proposed variation of a development plan.
Article 21	Article 88	Amendment as to Minister's title and deletion of the reference to an area specified as an architectural conservation area in a draft of a proposed development plan or a proposed variation of a development plan.
Article 22	Article 89	Amended to increase from 4 weeks to 6 weeks the period for inspection of plans and particulars in relation to certain development by or on behalf of state authorities. Also increases scale of location maps, in the case of such developments, from 1:1250 to 1:2500, in line with other provisions in the legislation.
Article 23	Article 92	Inserts the definition of “application for strategic infrastructure” into Part 10 of the Regulations, which deals with Environmental Impact Statements.
Article 24	Article 95	(1)(b) Amended to require applicant to provide a site location map, with boundary

		outlined in red, when requesting a written opinion on what is to be included in an EIS. (2)(a) Amended to require notification of receipt of a scoping request to other bodies including the Minister.
Article 25	Article 103(3)	Amended to require a planning authority to place, and keep with the documents relating to the planning application, its decision, and the main reasons and considerations for the decision, as to whether a sub-threshold development the subject of a planning application would be likely to have significant effects on the environment.
Article 26	Article 105	Art 105 amended by the addition of a new sub-article (5) requiring acknowledgement of submissions where planning authority has requested an EIS on planning applications for sub-threshold development.
Article 27	Article 112	Amended to remove the requirement for An Bord Pleanála to publish notice of appeals accompanied by EIA, except in cases where the EIS would not have been published at planning application stage – i.e. cases where the Board requires an EIS under Article 109.
Article 28	Article 120(7)	Amended to provide that a copy of a decision of a planning authority that a sub-threshold development which it proposes to carry would not have not have significant effects on the environment, will be available for purchase as well as inspection. Also new requirement to make the main reasons and considerations available with the decision.
Article 29	Article 121	List of prescribed bodies updated to reflect name changes since the 2001 regulations and to include some new bodies.
Article 30	Article 123	Amended to remove the necessity for ABP to publish in an approved newspaper its decision on an application for approval of a local authority project requiring EIS. Article 72 has been amended to require publication of decisions on (and applications for approval of) such development.

Article 31	Substitution of Chapter 5 (Articles 124 – 132) of Part 10 in relation to transboundary environmental effects	These articles are amended to take account of reference to applications for strategic infrastructure development, and to clarify and expand the mechanisms for consultation between planning authorities, the Board and the Minister for the Environment, Heritage and Local Government as appropriate, and transboundary states.
	Article 124(3)	This sub-article, which requires the Minister to consult with the planning authority/ABP, having been notified by them of a development request with transboundary implications has been moved from Article 126 to Article 124.
	Article 126	<p>Amended firstly to provide that the planning authority/ABP must inform the transboundary state about the proposed development at the same time as informing the Minister (rather than, as previously, after the Minister had consulted with the planning authority/ABP). This is necessary to comply with the requirements of the EIA Directive as amended by Directive 2003/35/EC.</p> <p>The information to be provided to the transboundary state has also been amended to comply with the Directive: certain information (including a description of the project, the nature of possible decisions, the arrangements for public participation, etc) is supplied initially and where the transboundary state indicates that it wishes to a to take part in the decision-making procedures, the EIS is then forwarded to it.</p>
	Article 128	Art 128 has been amended by the insertion of a new sub-article 4, allowing the application to be withdrawn after 6 months if applicant does not forward requested further information.

	Article 130	This has been amended to take account of applications made to the Board in relation to strategic infrastructure development.
	New Article 130A	New article inserted to provide that the weekly list of planning applications prepared by a planning authority (article 27) and of appeals received and request for approval of local authority development prepared by ABP (article 72(2) and (6)) will identify where a proposed development may have transboundary environmental effects.
	Article 132	<p>Additions to this article include:</p> <ul style="list-style-type: none"> - In sub-article (1) a technical amendment to provide for the Minister to consult with planning authorities where information is received from a transboundary state in relation to development in that state which may have effects on the environment in this state. - Sub-article (2) requires that in addition to publishing a newspaper notice in relation to transboundary information received, planning authorities must also notify prescribed bodies. - Sub-articles (6) and (7) require that where the Minister receives the decision from a transboundary state in relation to an application for development which may have effects on the environment in this state, he or she must inform the relevant planning authorities, who must in turn publish a newspaper notice to inform the public of the decision.
Article 32	Part 11	Amendment of Part 11 – substitutes “Health and Safety Authority” for “National Authority for Occupational Safety and Health” throughout this part.
Article 33	Article 137	See amendment to Article 141 below.
Article 34	Article 141	Article 141 as currently worded requires ABP to consult the National Authority for Occupational Safety and Health, now the Health and Safety Authority, in the case of an appeal to which the Major Accidents Regulations apply. The requirement is to notify the

		<p>Authority within 2 weeks of receipt of the relevant documentation from the planning authority of the relevant documentation: ABP asked that “within 2 weeks” be replaced with “as soon as may be” and we agreed to this amendment.</p> <p>The current Article also requires ABP, when sending the notification, to request technical advice on the risk/consequences of a major accident. ABP asked that this be amended to a requirement to ask the Authority to firstly determine whether the Major Accidents Regulations apply to the proposed development and, if so, to provide technical advice. That is, the request for advice only comes into play where the Authority have first determined that the Major Accidents Regulations apply. The Authority have no objection to this amendment. A similar amendment has been made to Article 137, which deals with the requirement on a planning authority to notify the Authority in relation to a relevant planning application.</p>
Article 35	Article 143	Replaces the reference to “article 29” with “article 27”.
Article 36	Article 147	Replaces the reference to “article 29” with “article 27”.
Article 37	Article 150	Replaces the reference to “article 29” with “article 27”.
Article 38	Article 179	Amended to prescribe the railway operator and the Department of Communications, Marine and Natural Resources (for certain types of development) as consultees in relation to certain SDZs. Also to make amendments as regards Ministers' titles, Fáilte Eireann, etc. and to remove the reference to an area specified as an architectural conservation area in a draft of a proposed development plan or a proposed variation of a development plan.
Article 39	Article 182	Replaces a reference to “the relevant health board” with “the Health Service Executive”.
Article 40	Article 187	This article has been amended to permit the planning authority to seek additional copies of an application for outdoor event licence.

<p>Article 41</p>	<p>New Part 18 Strategic Infrastructure Development</p>	<p>This new Part inserts new articles 209 – 222 to prescribe certain bodies for consultation purposes in relation to Strategic Infrastructure development and to set out the detail of some of the procedures involved in the process set out in the Planning and Development (Strategic Infrastructure) Act 2006, including details of the pre-application consultation and public notification procedures.</p> <p>209 – Interpretation for this Part</p> <p>210 – Pre-application discussions</p> <p>211 – Consultations on information to be contained in an environmental impact statement</p> <p>212 – Additional requirement for public notice in respect of application</p> <p>213 – Prescribed bodies</p> <p>214 – Application procedure</p> <p>215 – Major Accidents</p> <p>216 – Weekly list</p> <p>217 – Submissions or observations in relation to an application</p> <p>218 – Further information, submissions, meetings etc.</p> <p>219 – Content of notice of Board’s decision on application for permission</p> <p>220 – Content of decision on application for approval of strategic infrastructure development</p> <p>221 – Notice under 146C(4)</p> <p>222 – Application of this Part</p>
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Article 42	Substitution of Schedule 3 – 5 new forms.	Form 1 (Site notice) Form 2 (Application form) Form 3 (Acknowledgement of receipt of submission or observation) Form 4 (Notice of proposed material contravention of a development plan) Form 5 (Site Notice of Further Information/Revised Plans)
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