

Ref: Circular 7 /2011 - Communities (Forest Consent and Assessment) Regulations 2010 (S.I. No. 558 of 2010)

This Circular provides a brief outline of the European Communities (Forest Consent and Assessment) Regulations 2010.

The **European Communities (Forest Consent and Assessment) Regulations 2010** were signed into law with effect from **14th October 2010**.

The Regulations update and replace Part 5 of the European Communities (Environmental Impact Assessment) (Amendment) Regulations 2001 (S.I. No. 538 of 2001), (*which have been revoked*), to take account of Ireland's obligations under the Directive 85/337/EC, as amended (*EIA Directive*).

All persons operating in the forestry sector should familiarise themselves with the provisions of the Regulations. They can be purchased from the Government Publications Sales Office or can be viewed at www.irishstatutebook.ie.

The Regulations largely restate the previous provisions contained in S.I. No. 538 of 2001 and introduce a number of new provisions in relation to forest road projects and public participation in the decision making process, along with the introduction of a number of offences and penalties for breaches of the Regulations.

The main changes are summarised below:

1. **Obligation to obtain approval**

The obligation to obtain the prior approval of the Minister for Agriculture, Fisheries and Food in respect of afforestation (*which was required under S.I. No. 538 of 2001*) has been extended to include "forest road works".

"forest road works" is defined as *"the construction of a forest road or works ancillary to such construction (whether or not such construction involves the removal of trees), but not where such construction consists of the provision of access to a public road"*.

"afforestation" is defined *"the conversion of land to a forest with a minimum area of 0.1 hectares and tree crown cover of more than 20 per cent of the total area, or the potential to achieve this cover at maturity"*

It should be noted that the approval of the Minister is required for **ALL** afforestation and forest road construction projects, whether grant aided or not.

Note: The Regulation has no impact on afforestation and forest road construction projects with prior approval under grant support schemes operated by the Department. The existing environmental assessment and approval procedures which are applied to those Schemes will satisfy the requirements of the Regulations.

Further guidance in relation to approval procedures for forest road projects is provided in APPENDIX I.

2. Public Consultation

The Regulations place a statutory obligation on the Minister to notify the public of all applications received and allow the public a minimum of 4 weeks in which to make a submission.

3. Offences

The Regulation introduces a number of offences, including offences for undertaking afforestation or forest road construction projects without the approval of the Minister.

4. Penalties

A person who commits an offence under the Regulations is liable to prosecution and may face fines of up to €5,000 on summary conviction or up to €250,000 on conviction on indictment

5. Directions in respect of certain work

If a development is undertaken without prior approval, the Minister is empowered to direct the landowner to (i) in respect of afforestation, to remove trees planted and (ii) in respect of forest road works, to remove the forest road, and (iii) to restore the land to its condition prior to the commencement of the development.

Further information

Enquiries in relation to the operation of Regulations should be made in writing (by post or e-mail) to:

Approvals Section,
Forest Service,
Department of Agriculture, Fisheries and Food,
Johnstown Castle Estate,
Co. Wexford
E-mail: forests@agriculture.gov.ie

Forest Service
25th May 2010

Forest Road Approval System

Guidance for seeking approval for the construction of forest roads

The provisions have been introduced to provide a statutory basis for ensuring that forest road construction projects are assessed in accordance with the requirements of the EIA Directive and are only approved if they will not have a significant environmental impact.

Forest Road Grant Scheme

For forest road works approved under the Forest Road Grant Scheme, the existing environmental assessment and approval procedures operated under the Scheme will satisfy the requirements of the Regulations as EIA screening and the prior approval of the Minister are already conditions of the Scheme.

The requirement for an EIA for any road construction project equal to or greater than 2,000 metres remains in place.

Other Forest Road projects

Where no grant assistance is being sought in respect of a new forest road development, the developer will need to ensure that the project is undertaken in compliance with the Regulations and that, where required, the prior approval of the Minister is obtained for the development.

Applications for approval of non grant-aided forest road developments are being facilitated via the existing IFORIS iNET system.

Definition of “forest road works”

Under the Regulation,

- ***‘forest road works’*** is defined as ***“the construction of a forest road or works ancillary to such construction (whether or not such construction involves the removal of tree) but not where such construction consists of the provision of access to a public road”***.
- ***‘forest road’*** is defined as ***“a road (other than a public road) that serves a forest”***

The Regulations apply to all new forest road construction projects and works ancillary to such construction, whether or not a grant is being sought for the development.

It is considered that the following activities do not fall within the scope of the Regulation and do not, therefore, require the prior approval of the Minister:

1. Construction of forest roads (*including works ancillary to such construction*) where the works commenced before 14th October 2010,
2. Upgrade or repair to existing roads and works ancillary to such upgrade or repair,
3. Construction of tracks and paths (*less than 2.9 metres wide*) to facilitate forest management and other forest activities (*but not including new forest roads constructed to a standard which would allow the haulage of timber by lorries*)
4. Construction of stacking areas
5. Construction of turntables

6. Construction of lay-bys
7. Construction of culverts
8. Tree felling to facilitate or enable road works - This felling is subject to the Forestry Act 1946
9. Construction of roads constructed for reasons other than to serve a forest (e.g. to serve a wind farm) Note: Permission under the Planning and Development Act 2000 may be required for such roads.
10. The extension of an existing forest road by up to one third of its length, provided any such extension does not exceed 90 metres, but excluding any extension that would be situated in an SAC, SPA, pNHA or NHA, or is within 100 metres of:
 - *A Registered Historic Monument or Archaeological Area under Section 5 of the National Monuments (Amendment) Act 1987*
 - *A Recorded Monument under Section 12 of the National Monuments (Amendment) Act 1994*
 - *A National Monument in State or Local Authority ownership or guardianship or with a Preservation Order under the National Monuments Acts 1930-2004*

Note: The works listed 4, 5, 6 and 7 above will require approval if undertaken as part of the construction of a new forest road and are ancillary to such construction.

Definition of “works ancillary to road construction”

This definition includes:

1. Construction of stacking areas, turntables, lay-bys, bridges and culverts that are constructed as part of the construction of a forest road
2. Road formation (construction of road base)
3. Barrow pits (sources of road material that do not require planning permission) on lands adjoining the road construction site

It is envisaged that, as the approval system evolves, further clarification may be issued, as required, in relation to the operation of the Regulations and their impact of forest road projects.