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## **Submission in Response to the Public Consultation on Proposed Amendments to the Access to Information on the Environment (AIE) Regulations 2007 – 2018**

To whom it may concern,

Bord na Móna plc. welcomes the revision of the AIE Regulations and the opportunity to provide observations and feedback with regard to the proposed amendments.

### **Third Party Consultation Procedure**

There are a number of positive developments within the proposed Regulations, in particular, the formalisation and expansion of the third-party consultation procedure in Regulations 6 and 10. The proposed process allowing for greater participation by third parties, including in respect of appeals before the Commissioner for Environmental Information, addresses a lacuna in the current Regulations, whereby public authorities who may have provided information to other public authorities are denied the opportunity to participate in appeals before the OCEI or to furnish submissions in respect of information owned, created and/or provided by such public authority.

### **Manifestly Unreasonable Requests**

Bord na Móna plc. also supports the removal of the limitation to the volume or range of information sought, in respect of manifestly unreasonable requests in Regulation 7(1)(d), which brings the Regulations in line with Article 4(1)(b) of Directive 2003/4/EC, which contains no such limitation. A request may be manifestly unreasonable for a number of reasons, beyond simply the volume or range of information sought.

### **More Specific Requests**

The clarification contained in Regulation 6(8)(b) that where a more specific request is made following a request deemed too general in manner, that such request is treated as having been made on the date when the more specific request was made, is also to be welcomed and provides certainty to requests made in such circumstances.

### **General Duties of Public Authorities**

The proposed expansion of the statutory duties of public authorities in Regulation 4(1) will place additional responsibilities and burdens on public authorities, particularly the proposed duty in paragraph (f) to, *“take necessary measures to organise the environmental information, relevant to its functions, held by, or for, the public authority concerned with a view to its active and systematic dissemination to the public, by information technology or*

*by other electronic means*". The establishment of such organisational measures will involve a considerable burden on public authorities in terms of time, budget and staff resources.

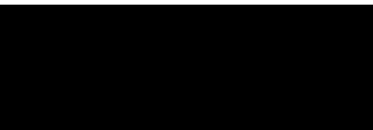
Bord na Móna plc. notes that the proposal in Regulation 4(1)(f) places a duty on public authorities more onerous than that contained in the AIE Directive, which provides in Article 7(1) that, "*Member States shall take the necessary measures to ensure that public authorities organise the environmental information which is relevant to their functions and which is held by or for them, with a view to its active and systematic dissemination to the public, in particular by means of computer telecommunication and/or electronic technology, **where available** (emphasis added)*". In Bord na Móna plc.'s view this is an important qualification, which mitigates the additional burden on public authorities consequent upon such an obligation, by allowing public authorities to utilise currently available IT systems/technologies, rather than requiring investment in new systems/technologies. Therefore, Bord na Móna plc. believes the text of Regulation 4(1)(f) should be amended to reflect the wording of Article 7(1) of the AIE Directive.

Further, it is noted that Article 7(1) of the AIE Directive allows for member states to exclude from the obligation to make information available by electronic technology, "*information collected before the entry into force of this Directive unless it is already available in electronic form.*" In Bord na Móna plc's view, this would also mitigate the considerable burden on public authorities in complying with the obligation in Regulation 4(1)(f). Making such historical information electronically available would impose a significant onus on public authorities from the perspective of time and resourcing.

Furthermore, it is noted that no definition of "*authorisations with a significant impact on the environment*" as referenced in Regulation 4(1)(b) and (c) is contained within the proposed Regulations, which creates uncertainty and difficulties for public authorities in understanding what is required of them. Bord na Móna plc. would welcome clarification in this regard.

Finally, it is requested that any new or amended provisions to the Regulations both be accompanied with appropriate Guidance, as well as a sufficient transitional period prior to their commencement, to enable such measures to be implemented by public authorities.

Yours sincerely,



Company Secretary  
Bord na Móna plc.