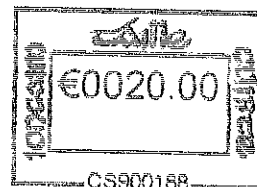
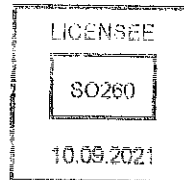




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IN THE MATTER OF ARTICLE 12(9)(a) OF THE ACCESS TO THE INFORMATION ON THE ENVIRONMENT REGULATIONS 2007-2018

2021/242 MCA

BETWEEN:-

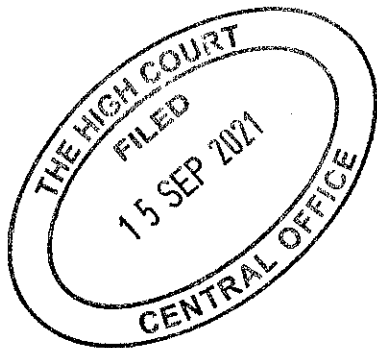
THE COMMISSIONER FOR ENVIRONMENTAL INFORMATION

Applicant

AND

COILTE TEORANTA and PEOPLE OVER WIND

Respondents



AFFIDAVIT OF DEIRDRE MCGOLDRICK


I, **Deirdre McGoldrick**, Senior Investigator in the Office of the Commissioner for Environmental Information of 6 Earlsfort Terrace, Dublin 2, aged eighteen years and upwards, **MAKE OATH AND SAY** as follows:-

1. I am a Senior Investigator in the Office of the Information Commissioner, within the meaning of section 43 of the Freedom of Information Act 2014. I make this Affidavit from facts within my own knowledge save where otherwise appears and where so appearing I depose to the same believing it to be true and accurate.
2. The Applicant ("**the Commissioner**") is the holder of the office of Commissioner for Environmental Information, an independent statutory office established under article 12(1) of the European Communities (Access to Information on the Environment) Regulations 2007-2018 ("**the AIE**")

Regulations”). As provided for in article 12(10) of the AIE Regulations, the Commissioner is assisted by staff of the office of the Information Commissioner. I am currently assigned to assist the Commissioner in the carrying out of his functions in addition to my position as Senior Investigator in the Office of the Information Commissioner.

3. I make this Affidavit on behalf of the Commissioner and with his consent, in accordance with Order 84B of Rules of the Superior Courts, for the purposes of grounding an application for interpretation of some points of law arising in an appeal under the AIE Regulations.
4. The First Named Respondent is a commercial forestry business, owned by the State, and having its registered address at Dublin Road, Newtown Mount Kennedy, Co. Wicklow.
5. The Second Named Respondent is a community group which professes to be concerned about the size and scale of proposed wind farm developments in the Midlands area and the negative impacts on residents of and visitors to these areas.
6. The background and procedural history to this application is set out in the Statement of Facts as found by the Commissioner. This Statement of Facts contains an annex of all the relevant communications between the parties. For convenience I will not repeat the full background here and all of the relevant documents are contained in a consolidated exhibit upon which I have marked my initials “DG 1” prior to swearing this affidavit.
7. Article 12(9)(a) of the AIE Regulations provides that the Commissioner may refer any question of law arising in an appeal under Article 12 of the AIE Regulations to the High Court for determination. The Commissioner must postpone the making of a decision until after the determination of the court proceedings.

8. The Commissioner believes that the assistance of this Honourable Court is required to determine the issues of law which are arising in the appeal.
9. The Commissioner requires assistance on the interpretation of articles 8(a)(iv) and 9(1)(c), to the extent that they involve an interplay (if any) with the Freedom of Information Act 2014. The Commissioner does not require assistance in relation to the interpretation of article 9(2)(d) of the AIE Regulations (the other issue in the appeal).
10. There are a number of other appeals before the Commissioner which involve article 8(a)(iv) and/ or article 9(1)(c) of the AIE Regulations, many of which have reached, or will soon reach, an impasse as a result of the difficulties posed by applying these provisions of the AIE Regulations. The answer to the questions posed will have precedential value, which can be applied to all cases involving the same provisions of the AIE Regulations.
11. In all the circumstances, I pray this Honourable Court to grant the relief sought in the Notice of Motion herein.


CATHAL YOUNG
Cathal M. Young, O'Reilly & Co.
Solicitors
1 - 2 Lower Leeson St.
Dublin 2

Sworn by Deirdre McGoldrick

(a) who is personally known to me;

or,

~~(b) who has been personally
identified to me by~~

~~who is personally known to me~~

~~and who has certified to me~~

~~his/her personal knowledge of~~

~~the Deponent; or~~

~~(c) the identity of the Deponent has~~

~~been established by me by~~

~~reference to a~~

~~containing a photograph of the~~

~~Deponent;~~

this 9th day of September

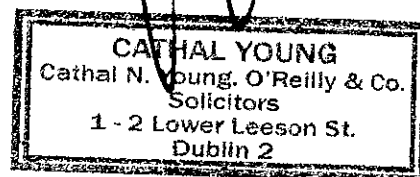
2021 at 1-2 Lower Leeson Street

in the City of Dublin before me a

Practising Solicitor

Deirdre McGoldrick
Deponent

Cathal Young
Practising Solicitor



Filed on the day of , 2021 on behalf of the Applicant by:

Legal Services Unit
Office of the Ombudsman and Commissioner for Environmental Information
Solicitors for the Applicant
5 Earlsfort Terrace
Dublin 2

THE HIGH COURT

Record No. 2021/ MCA

**IN THE MATTER OF ARTICLE 12(9)(a) OF
THE ACCESS TO THE INFORMATION ON
THE ENVIRONMENT REGULATIONS 2007-
2018**

BETWEEN:-

**THE COMMISSIONER FOR
ENVIRONMENTAL INFORMATION**

Applicant

AND

**COILLTE TEORANTA and PEOPLE OVER
WIND**

Respondents

AFFIDAVIT OF DEIRDRE MCGOLDRICK
