
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 66

The Planning (Control of Advertisements)
Regulations (Northern Ireland) 2015

PART 1
GENERAL

Citation and commencement

1. These Regulations may be cited as the Planning (Control of Advertisements) Regulations (Northern Ireland) 2015 and come into operation on 1st April 2015.

Interpretation

2.—(1) In these Regulations—

“the 1965 Act” means the Land Development Values (Compensation) Act (Northern Ireland) 1965(1);

“the 2011 Act” means the Planning Act (Northern Ireland) 2011;

“amenity” includes aural and visual amenity;

“area of outstanding natural beauty” means an area designated by an order made under Article 14(1) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985(2);

“balloon” means a tethered balloon or a similar tethered object;

“commission” means the planning appeals commission;

“deemed consent” means consent given by regulation 5;

“Department” means the Department of the Environment;

“electronic communication” has the meaning assigned to it by section 4 of the Electronic Communications Act (Northern Ireland) 2001(3);

“express consent” has the meaning given by regulation 4(1)(a);

“government department” has the meaning assigned to it by section 212 of the 2011 Act;

“illuminated advertisement” means an advertisement which is designed or adapted to be illuminated by artificial lighting, directly or by reflection and which is so illuminated;

“interested council” has the meaning assigned to it by section 107(6) of the 2011 Act;

“National Park” means an area designated by an order made under Article 12(1) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985;

(1) 1965 c.23 (N.I.) as amended by 2011 c.25 (N.I.) section 179(4) Schedule 4

(2) S.I. 1985/170 (N.I.1)

(3) 2001 c.9 (N.I.) as amended by 2003 c.21

“site” means any land on which an advertisement is displayed but does not include a hoarding or similar structures;

“standard conditions” means the conditions specified in Schedule 1.

(2) Any reference in these Regulations to a person displaying an advertisement includes—

- (a) the owner and occupier of the land on which the advertisement is displayed;
- (b) any person to whose goods, trade, business or other concerns publicity is given by the advertisement; and
- (c) the person who undertakes or maintains the display of an advertisement.

(3) Except in Schedule 2, Class A, any reference in these Regulations to the land, the building, the site or premises on which an advertisement is displayed includes, in the case of an advertisement which is displayed on, or consists of, a balloon, a reference to the land, the building, the site or other premises to which the balloon is tethered and to all land, buildings or other premises normally occupied therewith.

(4) In these Regulations, and in relation to the use of electronic communications for any purpose of these Regulations which is capable of being carried out—

- (a) the expression “address” includes any number or address used for the purpose of such communications;
- (b) references to plans, notices or other documents or to copies of such things include references to such documents or copies of them in electronic form.

(5) Paragraphs (6) to (10) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send any plan, notice or other document to any other person (“the recipient”).

(6) The requirement shall (except in a case referred to in paragraph (7)) be taken to be fulfilled where the notice or other document transmitted by means of electronic communication is—

- (a) capable of being accessed by the recipient;
- (b) legible in all material respects; and
- (c) sufficiently permanent to be used for subsequent reference.

(7) The cases are—

- (a) serving notice under regulation 6(8);
- (b) serving notice under regulation 7(2);
- (c) serving notice requiring application for express consent under regulation 14;
- (d) serving notice under section 70(2) of the 2011 Act as applied by regulation 16.

(8) In paragraph (6), “legible in all material respects” means that the information contained in the notice or document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(9) Where the electronic communication is received by the recipient outside the recipient’s business hours, it shall be taken to have been received on the next working day; and for this purpose “working day” means a day which is not a Saturday, Sunday or a public holiday.

(10) A requirement in these Regulations that any application, notice or other document should be in writing is fulfilled where the document meets the criteria in paragraph (6).

Powers to be exercised in the interests of amenity and public safety

3.—(1) A council shall exercise its powers under these Regulations only in the interests of amenity and public safety, taking into account—

- (a) the provisions of the local development plan, so far as they are material; and
 - (b) any other relevant factors.
- (2) Without prejudice to the generality of paragraph (1)(b)—
- (a) factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, archaeological, architectural or cultural interest, disregarding, if it thinks fit, any advertisements being displayed there;
 - (b) factors relevant to public safety include—
 - (i) the safety of any person who may use any road, railway, waterway (including coastal waters), docks, harbour or airfield;
 - (ii) whether any display of advertisements is likely to obscure, or hinder the ready interpretation of any road traffic sign, railway sign, or aid to navigation by water or air.
- (3) In determining an application for consent for the display of advertisements, or considering whether to make an order revoking or modifying a consent, the council may have regard to any material change in circumstances likely to occur within the period for which the consent is required or granted.
- (4) Unless it appears to the council to be required in the interests of amenity or public safety, an express consent for the display of advertisements shall not contain any limitation or restriction relating to the subject matter, content or design of what is to be displayed.
- (5) A consent for the display of advertisements shall take effect as consent for the use of the site for the purposes of the display, whether by the erection of structures or otherwise, and for the benefit of any person interested in the site.

Requirement for consent

- 4.—(1) Subject to paragraph (2), no advertisement may be displayed unless consent for its display has been granted—
- (a) by the council or the Department on an application in that behalf (referred to in these Regulations as “express consent”); or
 - (b) by regulation 5 (referred to in these Regulations as “deemed consent”).
- (2) The prohibition in paragraph (1) does not apply to an advertisement within any class set out in Schedule 2, which complies with—
- (i) any condition there specified; and
 - (ii) the standard conditions, except that paragraph 4 of Schedule 1 does not apply in the case of any Class F advertisement.

PART 2

DEEMED CONSENT

Deemed consent for the display of advertisements

- 5.—(1) Subject to regulations 6 and 7, deemed consent is hereby granted for the display of an advertisement falling within any class specified in Part 1 of Schedule 3, subject—
- (a) to any conditions and limitations specified in that Part in relation to that class; and
 - (b) to the standard conditions, except that paragraph 4 of Schedule 1 does not apply in the case of any Class 13 advertisement.

- (2) Part 2 of Schedule 3 applies for the interpretation of that Schedule.

Directions restricting deemed consent

6.—(1) If the Department is satisfied, upon a proposal made to it by a council, that the display of advertisements of any class or description specified in Schedule 3, other than Class 10 or 12, should not be undertaken in any particular area or in any particular case without express consent, it may direct that the deemed consent for that class or description shall not apply in that area or in that case, for a specified period or indefinitely.

- (2) Before making any such direction, the Department shall—

- (a) where the proposal relates to a particular area, publish, or cause to be published, in at least one newspaper circulating in the locality and, where the Department maintains a website for the purpose of advertisement, on its website a notice that such a proposal has been made, and such a notice shall—
 - (i) contain a full statement of the effect of the direction,
 - (ii) name a place or places in the locality where a copy of the proposed direction and of a map defining the area concerned may be inspected at all reasonable hours; and
- (b) where the proposal relates to a particular case, serve, or cause to be served, on the owner and occupier of the land affected and on any other person who, to its knowledge, proposes to display on that land an advertisement of the class or description concerned, a notice that a proposal has been made, specifying the land and the class or description of advertisement concerned.

(3) A notice under paragraph (2) shall state that any representation about the making of a direction may be made to the Department in writing within such period, being not less than 21 days from the date when the notice was first published or served (as the case may be), as is specified in the notice.

(4) The Department shall not make a direction under this regulation until after the expiry of the specified period.

- (5) In determining whether to make a direction, the Department—

- (a) shall take into account any representation made in accordance with paragraph (3) (a “paragraph (3) representation”);
- (b) where any paragraph (3) representation consists of an objection, may give to the council and to any other person who has made a paragraph (3) representation, an opportunity of appearing before and being heard by the commission and shall take into account any report produced by the commission; and
- (c) may modify the proposal of the council if—
 - (i) it has given to that council and every person who has made a paragraph (3) representation, notice in writing of its intention and the reasons for it and has given them a reasonable opportunity to respond; and
 - (ii) the intended modification does not extend the area of land specified in the proposal.

(6) Where the Department makes a direction, it shall send it to the council, with a statement of its reasons for making it, and shall send a copy of that statement to every person who has made a paragraph (3) representation.

(7) Notice of the making of any direction for a particular area shall be published by the council in at least one newspaper circulating in the locality and, where the council maintains a website for the purpose of advertisement, by publication of the notice on the website, and such notice shall—

- (a) contain a full statement of the effect of the direction;

- (b) name a place or places in the locality where a copy of the direction and of a map defining the area concerned may be inspected at all reasonable hours; and
- (c) specify a date when the direction shall come into force, being at least 14 and not more than 28 days after the first publication of the notice.

(8) Notice of the making of any direction for a particular case shall be served by the council on the owner and on any occupier of the land to which the direction relates, and on any other person who, to the knowledge of the council, proposes to display on that land an advertisement of the class or description concerned.

(9) A direction for an area shall come into force on the date specified in the notice given under paragraph (7), and a direction for a particular case shall come into force on the date on which notice is served on the occupier or, if there is no occupier, on the owner of the land affected.

Discontinuance of deemed consent

7.—(1) If it appears to the council that to remedy a substantial injury to the amenity of the locality or a danger to public safety—

- (a) the display of a particular advertisement for which there is deemed consent should be discontinued; or
- (b) the use of a particular site for the display of advertisements for which there is deemed consent should be discontinued or that any conditions should be imposed on the continuance of a use of the site—

the council may by order require the discontinuance of that consent or use within such time as may be specified in the order, or impose such conditions as may be so specified on the continuance of the use, as the case may be.

(2) Before making an order under this regulation, the council shall serve notice on the person displaying the advertisement and on any other person who in its opinion would be affected by the order; and if within such period as may be specified in that behalf in the notice (not being less than 28 days from the date of service thereof) any person on whom the notice is served so requests in writing, the council shall afford to that person an opportunity of appearing before and being heard by the commission.

(3) A notice under paragraph (2) shall contain a statement of the reasons why the council—

- (a) considers that a substantial injury to the amenity of the locality or a danger to public safety, as the case may be, has been caused; and
- (b) considers it necessary to make an order under paragraph (1).

(4) Where the council makes an order under this regulation it shall serve a copy of the order on the person displaying the advertisement to which the order relates and on any person who in its opinion would be affected by the order.

(5) In considering whether to make an order under this regulation, the council shall have regard to any material change in circumstances that has occurred.

PART 3

EXPRESS CONSENT

Applications for express consent to display advertisements

8.—(1) The provisions of section 40 of the 2011 Act specified in column 1 of Part 1 of Schedule 4 shall apply to applications for express consent to display advertisements as if references

in those provisions to planning permission were references to consent for the display of an advertisement, references to a development order were references to these Regulations and subject to the modifications specified in column 2.

(2) The provisions of section 40 of the 2011 Act as modified are set out in Part 2 of Schedule 4.

(3) An application for express consent must be made in writing to the appropriate council.

(4) The application must include the following particulars—

- (a) a written description of the advertisement to which it relates;
- (b) the postal address of the site, or if the site in question has no postal address, a description of the location of the site;
- (c) the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent; and
- (d) a plan sufficient to identify the site to which it relates and such other plans and drawings as are necessary to describe the advertisement which is the subject of the application.

(5) Where the application is one to which directions given by the Department under regulation 9 apply, the applicant shall send with the application (whether electronically or otherwise) the particulars specified or referred to in those directions as may have been notified to the applicant by the council.

(6) The council may give directions generally, or in relation to a particular case or class of case, specifying the kinds of particulars, plans or information to be contained in an application for express consent.

(7) On receipt of an application for express consent, the council shall send an acknowledgment in writing to the applicant.

Department's directions

9. The Department may give directions to a council, either generally or in relation to a particular case or class of case, specifying the kinds of particulars, plans or information that are to accompany an application for express consent.

Duty to consult

10.—(1) Before granting an express consent, the council shall consult—

- (a) any neighbouring council, any part of whose district appears likely to be affected;
- (b) where the council considers that a grant of consent may affect the safety of the persons using any road, the Department for Regional Development;
- (c) where the council considers that a grant of consent may affect the safety of persons using any railway, waterway, dock, harbour or aerodrome (civil or military), the person responsible for its operation and, in the case of coastal waters, the Commissioners of Irish Lights; and
- (d) where the application—
 - (i) relates to an advertisement with moving features, moving parts or flashing lights, and
 - (ii) is visible from a road,

the Department for Regional Development.

(2) The council shall give to those with whom consultation is required at least 14 days notice that the relevant application is to be considered and shall take into account, in dealing with the application, any representations made in response to that consultation.

Determination of applications by the council

- 11.**—(1) Where an application for express consent is made to the council it may—
- (a) refuse consent; or
 - (b) subject to paragraphs (3) and (4), grant consent, in whole or in part, subject to the standard conditions and to such additional conditions as it thinks fit.
- (2) An express consent may be granted—
- (a) for the display of a particular advertisement or advertisements with or without illumination;
 - (b) for the use of a particular site for the display of advertisements in a specified manner, whether by reference to the number, siting, dimensions or illumination of the advertisements, or the structures intended for such display, or the design or appearance of any such structure; or
 - (c) for the retention of any display of advertisements or the continuation of the use of a site, begun before the date of application.
- (3) The conditions imposed under paragraph (1)(b) may in particular include conditions—
- (a) regulating the display of advertisements to which the consent relates;
 - (b) regulating for the display of advertisements the use of the site to which the application relates or any adjacent land under the control of the applicant, or requiring the carrying out of works on any such land;
 - (c) requiring the removal of any advertisement or the discontinuance of any use of land authorised by the consent, at the end of a specified period, and the carrying out of any works then required for the reinstatement of the land.
- (4) The council shall not, under paragraph (1)(b), impose any conditions in relation to the display of an advertisement within any class specified in Part 1 of Schedule 3, more restrictive than those imposed by that part in relation to that class.

Applications by interested councils

- 12.**—(1) An application made by an interested council (whether solely or jointly with any other person) for express consent to display an advertisement shall be determined by the council concerned unless the application is referred to the Department under section 29 of the 2011 Act (as modified by paragraph 2) for determination by it.
- (2) Where such an application is referred to the Department, section 29 shall apply as if—
- (a) in subsection (1), for “applications for planning permission made to a council, or applications for the approval of a council of any matter required under a development order”, there were substituted “applications for the display of advertisements pursuant to regulations made under section 130 of this Act”;
 - (b) subsections (3) and (5) were omitted; and
 - (c) in subsection (6) the words “, other than an application mentioned in subsection (5),” were omitted.
- (3) Where the Department gives a direction under section 29 in respect of an application for express consent, regulations 10 to 13 shall apply to that application as if—
- (a) references to the council (in whatever terms) were references to the Department; and
 - (b) references to “applicant” were references to an “interested council”.

Notification of decision

13.—(1) The grant or refusal of an express consent by the council shall be notified in writing to the applicant within a period of 8 weeks from the date of the receipt of the application or such longer period as the applicant may, before that date, agree in writing.

(2) The council shall state in writing its reasons for—

(a) any refusal, whether total or partial; and

(b) any decision to attach any conditions under regulation 11(1)(b) to a consent, except a condition specified in Part 1 of Schedule 3 in a case to which regulation 11(4) applies.

(3) Where a request has been made to the Secretary of State for a certificate in respect of section 235(1) of the 2011 Act or the Department of Justice in respect of section 235(4) of the 2011 Act, the period specified in paragraph (1) of this regulation shall begin on the date that the council is notified of that decision.

Notice requiring application for express consent

14.—(1) The provisions of sections 43 and 44 of the 2011 Act specified in column 1 of Part 1 of Schedule 4 shall apply to the display of advertisements as if references in those provisions to planning permission were references to consent for the display of an advertisement and subject to the modifications specified in column 2.

(2) The provisions of sections 43 and 44 of the 2011 Act as modified are set out in Part 2 of Schedule 4.

Appeals to the planning appeals commission

15.—(1) Where an application is made to the council for consent to display an advertisement and the consent is refused or granted subject to conditions, the provisions of sections 58 to 60 of the 2011 Act specified in column 1, of Part 1 of Schedule 4 shall apply as if references in those provisions to planning permission were references to consent for the display of an advertisement, references to a development order were references to these Regulations and subject to the modifications set out in column 2.

(2) The provisions of sections 58 to 60 of the 2011 Act as modified under paragraph (1), are set out in Part 2 of Schedule 4.

Revocation or modification of express consent

16.—(1) The provisions of sections 68 and 70 of the 2011 Act specified in column 1 of Part 1 of Schedule 4 shall apply to the revocation or modification of a consent for the display of an advertisement subject to the modifications set out in column 2.

(2) The provisions of sections 68 and 70 of the 2011 Act as modified under paragraph (1), are set out in Part 2 of Schedule 4.

Compensation for revocation or modification of consent

17.—(1) Where a consent for the display of an advertisement has been revoked or modified by an order made under section 68 of the 2011 Act as applied by regulation 16 and a claim is made in accordance with paragraph (3) the provisions of section 26 of the 1965 Act specified in column 1 of Part 3 of Schedule 4 shall apply subject to the modifications set out in column 2.

(2) The provisions of section 26 of the 1965 Act as modified under paragraph (1) are set out in Part 4 of Schedule 4.

(3) A claim for compensation must be made in writing and received by the council within 6 months of the date from the making of the order to which it relates, or such extended period as the council may allow in any particular case.

Use of electronic communications

18.—(1) Paragraphs (2) and (3) apply where a person uses electronic communications for any of the following purposes—

- (a) making an application for express consent under regulation 8;
- (b) serving notice of appeal to the commission under regulations 14 or 15;
- (c) making a claim for compensation under regulation 17;
- (d) giving notice to the council under a deemed consent under Part 1 of Schedule 3 which is subject to a condition to give such a notice.

(2) In a case to which this paragraph applies, and except where a contrary intention appears, the person making the application, claim or giving or serving notice shall be taken to have agreed—

- (a) to the use of electronic communications for all purposes relating to the application, appeal, claim or notice (as the case may be) which are capable of being effected using such communications;
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, the application, appeal, claim or notice;
- (c) that the person's deemed agreement under this paragraph shall subsist until that person gives notice in writing that he or she wishes to revoke the agreement and such withdrawal or revocation shall be final and shall take effect on a date specified by that person in the notice but not less than seven days after the date on which the notice is given.

(3) The requirement in regulation 8(4)(d) that an application for express consent to display advertisements shall include a plan sufficient to identify the site is satisfied where the applicant identifies the site on an electronic map provided by the council and for this purpose a map is taken to be provided where the council has published it on its website.

PART 4

MISCELLANEOUS

Exercise of discontinuance powers by the Department

19.—(1) If it appears to the Department, after consultation with the council, that a discontinuance notice should be served under regulation 7, the Department may itself serve such a notice.

(2) Where the Department exercises its powers under paragraph (1), regulation 7 shall apply in relation to it as it applies in relation to a council as if for references to the council there were substituted references to the Department.

Discontinuance notice in respect of council's advertisement

20.—(1) If the Department is satisfied that it is necessary to remedy a substantial injury to the amenity of the locality or a danger to members of the public, it may serve a discontinuance notice under regulation 7 in relation to an advertisement displayed by an interested council.

(2) Regulation 7 shall apply in relation to a discontinuance notice served under paragraph (1) as it applies in relation to a discontinuance notice served by a council, with such modifications as may be necessary.

Revocation

21. The Planning (Control of Advertisements) Regulations (Northern Ireland) 1992(4) are revoked.

Sealed with the Official Seal of the Department of the Environment on 17th February 2015.



Angus Kerr
A senior officer of the Department of the
Environment