
STATUTORY INSTRUMENTS

1973 No. 69

Drainage (Northern Ireland) Order 1973

PART III

DRAINAGE SCHEMES

[^{F1}Determination of whether a drainage scheme should be approved

12H.—(1) On expiry of the period referred to in Article 12D(2)(b), the Department shall provide to the Drainage Council the information set out in sub-paragraph (2)(a).

(2) The Drainage Council must ensure that it has or has access as necessary to sufficient expertise to examine the environmental statement and on the expiry of the period referred to in Article 12D(2)(b) it shall, within 90 days—

- (a) examine the information presented in the environmental statement and any supplementary information provided, where necessary, in accordance with Article 12E and any relevant information received through the consultations under Articles 12D and 12G, to assess, the direct and indirect effects of the proposed drainage scheme on the environmental factors specified in Schedule 2C;
- (b) reach a reasoned conclusion on the significant effects of the drainage scheme on the environment, taking into account the results of the examination referred to in sub-paragraph (a) (and where appropriate, its own supplementary examination); and
- (c) include that reasoned conclusion in the decision as to whether the proposed drainage scheme is to be approved or not to be approved.

(3) Where—

- (a) the Drainage Council is satisfied that the reasoned conclusion, or any decisions made on the proposed scheme are still valid; and
- (b) no objections in relation to the likely environmental effects of the scheme have been made; or
- (c) any such objection has been withdrawn,

the Drainage Council, having considered the examination required by paragraph (1), may determine, (unconditionally or subject to conditions) that the drainage scheme should be approved, or should not be approved.

(4) Where the Drainage Council has determined—

- (a) in accordance with paragraph (3) that the drainage scheme should be approved or should be approved subject to conditions; or
- (b) that the scheme should not be approved,

it shall provide the Department with the determination and the Department shall determine that the scheme will proceed or will not proceed, and the Department will publish a general and local advertisement, in accordance with paragraph (5).

(5) Each advertisement referred to in paragraph (4) shall—

- (a) inform the public of the determination;
- (b) give details of the places where and times at which the public may inspect a statement of—
 - (i) the reasoned conclusion of the Drainage Council on the significant effects of the proposed scheme on the environment, taking into account the results of the examination referred to in paragraph 2(a);
 - (ii) any conditions to which the decision is subject which relate to the likely significant environmental effects of the proposed works on the environment;
 - (iii) a description of any features of the proposed works and any measures envisaged in order to avoid, prevent, reduce and, if possible, offset the likely significant adverse effects on the environment;
 - (iv) information about the public participation process and the results of the consultations; and
 - (v) any monitoring measures considered appropriate by the Drainage Council.

(6) At the same time as the notice in the Belfast Gazette is published under paragraph (4), the Department shall send a copy of the Drainage Council's determination along with the details referred to in paragraph (5)(b)(i) to (v) to each consultation body and to any person who made representations under Article 12D or 12G, to the proposed works.

(7) Where the Drainage Council, having considered the examination specified in paragraph (2) considers that the scheme in question should be approved but objections to the works specified in the scheme made in relation to their likely environmental effects have not been withdrawn, it shall refer the proposal for a scheme together with the environmental statement, any additional information and any representations on it to the Commission for determination in accordance with paragraphs (8) to (11).

(8) Where the Commission considers that the information about a scheme supplied to it in accordance with paragraph (7) does not provide sufficient information to enable a determination to be made in relation to the works specified therein, the Commission shall notify the Department and the Drainage Council in writing of the matters on which further information is required and may make a written request to the Department and the Drainage Council for such information as it may be able to provide on the matters raised.

(9) Where, in accordance with paragraph (8), the Commission requests further information, the Department shall co-ordinate the information from the Drainage Council and—

- (a) no later than the time when it provides that information to the Commission, state by general and local advertisement—
 - (i) that the further information is available and give details of the places where and times at which a copy may be inspected; and
 - (ii) that any person who wishes to make representations on the likely environmental effects of the drainage scheme to which the further information relates should make the representations in writing to the Commission at the address specified in the notice within 30 days of the date of the publication of the notice in the Belfast Gazette; and
- (b) on or before the date of the publication of the notice in the Belfast Gazette, supply a copy of the further information and notice to each of the consultation bodies so that they have an opportunity to make representations to the Commission on the likely environmental effects of the works specified in the scheme in question before the expiry of the period specified in the notice.

(10) The Commission shall—

- (a) assess, in the light of the environmental statement, any further information provided by the Department in response to a request under paragraph (8) and any representations referred

- to in Article 12D, Article 12G or paragraph (9), the direct and indirect effects of the proposed scheme on the environmental factors specified in Schedule 2C;
- (b) afford the Department, the Drainage Council, and any person who made the representations the opportunity of appearing before and being heard by the Commission;
 - (c) having regard to the assessment under sub-paragraph (a) and the representations made under sub-paragraph (b) and having examined the concerns and opinions expressed by the public and the main reasons and considerations upon which the determination under consideration was based, including information about the public participation process—
 - (i) consent to the carrying out of the works specified in the scheme unconditionally or subject to such conditions as the Commission considers appropriate; or
 - (ii) refuse to consent to the works; and
 - (d) send to the Department, the Drainage Council, and to any other person who made representations under Article 12D, Article 12G or paragraph (9) a statement in writing of—
 - (i) the reasoned conclusion of the Commission on the significant effects of the proposed works on the environment, taking into account the results of the examination referred to in paragraph (10)(a);
 - (ii) any conditions to which the decision is subject which relate to the likely significant environmental effects of the proposed works on the environment;
 - (iii) a description of any features of the proposed works and any measures envisaged in order to avoid, prevent, reduce and, if possible, offset the likely significant adverse effects on the environment;
 - (iv) information about the public participation process and the results of the consultations; and
 - (v) any monitoring measures considered appropriate by the Commission.
- (11) The Department shall by general and local advertisement—
- (a) inform the public of the Commission’s decision under paragraph (10)(c);
 - (b) give details of the places where and times at which the public may inspect a copy of the statement sent to the Department under paragraph (10)(d); and
- place the notice and a copy of the environmental statement on a website maintained by the Department.
- (12) In relation to any determination made by the Drainage Council or by the Commission under this Article or Article 12A, the Department shall maintain a record of, and make available to the public on request the information referred to in paragraph (10)(d).]

F1 Arts. 12, 12ZA, 12A-12I substituted (16.5.2017) for arts. 12-12H by [The Drainage \(Environmental Impact Assessment\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/88\)](#), regs. 1, 21

Changes to legislation:

There are currently no known outstanding effects for the Drainage (Northern Ireland) Order 1973, Section 12H.