
STATUTORY INSTRUMENTS

1991 No. 1220

The Planning (Northern Ireland) Order 1991

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Planning (Northern Ireland) Order 1991.

(2) Subject to paragraph (3), this Order shall come into operation on the expiration of 3 months from the day on which it is made.

(3) Articles 28, 53 to 63 and 81 shall come into operation on such day or days as the Head of the Department may by order appoint^{F1}.

F1 fully exercised SR 1992/264; 1993/276

Interpretation

2.—(1) [^{F2}Subject to Article 112E(2),] the Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“Act” includes an Act of the Parliament of the United Kingdom;

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

[^{F3}“address” in relation to electronic communications, means any number or address used for such purposes;]

“advertisement” means any word, letter, model, sign, placard, board, notice, [^{F4}awning, blind,] device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and (without prejudice to the preceding provisions of this definition) includes any hoarding or similar structure used, [^{F4} or designed] or adapted for use [^{F4} and anything else principally used, or designed or adapted principally for use], for the display of advertisements, and references to the display of advertisements shall be construed accordingly;

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing lands, meadow land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes;

[^{F4}“breach of condition notice” has the meaning assigned to it by Article 76A;]

[^{F4}“breach of planning control” has the meaning assigned to it by Article 67A;]

Status: Point in time view as at 01/04/2007.

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“building” includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building;

“buildings or works” includes waste materials, refuse and other matters deposited on land, and references to the erection or construction of buildings or works shall be construed accordingly;^{F4} and references to the removal of buildings or works include demolition of buildings]

[^{F4}“building operations” has the meaning assigned to it by Article 11;

“building preservation notice” has the meaning assigned to it by Article 42A(1);]

“conservation area” has the meaning assigned to it by Article 50;

“contravention of hazardous substances control” has the meaning assigned to it by Article 61(2);

“the Department” means the Department of the Environment;

“development” has the meaning assigned to it by Article 11;

“development order” has the meaning assigned to it by Article 13;

[^{F5}“electricity undertaker” means a holder of a licence under Article 10(1) of the Electricity Order (Northern Ireland) 1992;]

[^{F6}“electronic communication” has the same meaning as in the Electronic Communications Act (Northern Ireland) 2001;]

“enactment” includes an enactment in any local or private Act of Parliament, and an order, rule, regulation, bye-law or scheme made under an Act of Parliament;

“enforcement notice” means a notice under Article 68;

“engineering operations” includes the formation or laying out of means of access to roads;

“enterprise zone scheme” means a scheme or modified scheme under Part II of the Enterprise Zones (Northern Ireland) Order 1981 having effect to grant planning permission by virtue of Article 19;

“erection” in relation to buildings includes extension, alteration and re-erection;

[^{F7}“gas undertaker” means a holder of a licence under Article 8 of the Gas (Northern Ireland) Order 1996;]

“hazardous substances consent” means consent required by Article 53;

“hazardous substances contravention notice” has the meaning assigned to it by Article 81(3);

“lease” includes an underlease and an agreement for a lease or underlease, but does not include an option to take a lease or a mortgage, and “leasehold interest” means the interest of the tenant under a lease as so defined;

“listed building” has the meaning assigned to it by Article 42;

“listed building consent” has the meaning assigned to it by Article 44;

“listed building enforcement notice” has the meaning assigned to it by Article 77;

“means of access” includes any means of access, whether private or public, for vehicles or for foot passengers, and includes a street;

“minerals” includes all minerals and substances in or under land of a kind ordinarily worked for removal by underground or surface working, except that it does not include turf cut for purposes other than sale;

“mining operations” means the winning and working of minerals in, on, or under land whether by surface or underground working;

“mortgage” includes any charge or lien on any property for securing money or money's worth;

“outline planning permission” has the meaning assigned to it by Article 35(1);

“owner” in relation to land, means a person, other than a mortgagee not in possession, who, whether in his own right or as trustee for any other person, is entitled to receive the rack rent of the land, or where the land is not let at a rack rent, would be so entitled if it were so let;

[^{F4}“planning contravention notice” has the meaning assigned to it by Article 67C(1);]

“planning decision” means a decision made on an application in accordance with Part IV;

“planning permission” means permission under Part IV^{F4}. . . ;

“planning permission granted for a limited period” has the meaning assigned to it by Article 27(2);

“prescribed” means prescribed by regulations under this Order;

“public body” has the same meaning as in the Local Government Act (Northern Ireland) 1972;

“purchase notice” means a notice served under Article 94;

[^{F8}“regional development strategy” means the strategy formulated by the Department for Regional Development under the Strategic Planning (Northern Ireland) Order 1999;]

“re-location of population or industry”, in relation to any area, means the rendering available elsewhere than in that area (whether in an existing community or a community to be newly established) of accommodation for residential purposes or for the carrying on of business or other activities, together with all appropriate public services, facilities for public worship, recreation and amenity, and other requirements, being accommodation to be rendered available for persons or undertakings who are living or carrying on business or other activities in that area and whose continued or resumed location in that area would be inconsistent with the proper planning thereof;

“replacement of open space”, in relation to any area, means the rendering of land available for use as an open space, or otherwise in an undeveloped state, in substitution for land in that area which is so used;

“road” has the same meaning as in the Roads (Northern Ireland) Order^{F9} 1993] but includes land in respect of which street planning functions, as defined in the Private Streets (Northern Ireland) Order 1980, have been exercised under Article 3(1) of that Order;

“simplified planning zone” and

“simplified planning zone scheme” shall be construed in accordance with Article 14;

“statutory provision” has the same meaning as in the Interpretation Act (Northern Ireland) 1954;

“statutory undertaker” means persons authorised by any statutory provision to carry on any railway, road transport,^{F10}. . . water transport, inland navigation, dock or harbour undertaking, or^{F7} a gas undertaker][^{F5} or an electricity undertaker], or^{F11} a universal service provider (within the meaning of the Postal Services Act 2000) in connection with the provision of a universal postal service (within the meaning of that Act)][^{F10} or the airport operator (within the meaning of the Airports (Northern Ireland) Order 1994) of any airport to which Article 25 of that Order applies][^{F12} or a water undertaker or sewerage undertaker];

“stop notice” has the meaning assigned to it by Article 73;

“tenancy” includes a tenancy created by an agreement for a lease and a tenancy created under any enactment, but does not include—

(a) a mortgage term; or

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(b) a tenancy for a year (or any shorter term) or from year to year (or any other periodic tenancy) having reference to any period less than a year; or

(c) a tenancy at will;

“transferred provision” has the same meaning as in the Interpretation Act (Northern Ireland) 1954;

“tree preservation order” has the meaning assigned to it by Article 65;

“trustee” includes an implied or constructive trustee and a personal representative;

“use” in relation to land, does not include the use of land for the carrying out of any building or other operations thereon.

[^{F13}(2A) Where—

(a) an electronic communication is used for the purpose of giving or serving a notice or other document on or to any person for the purposes of this Order, and

(b) the communication is received by that person outside that person's business hours,

it shall be taken to have been received on the next working day, and in this paragraph, “working day” means a day which is not a Saturday, Sunday or a public holiday.]

(3) For the purposes of section 42(3) of the Northern Ireland Constitution Act 1973 (validity of Orders in Council under section 1(3) of the Northern Ireland (Temporary Provisions) Act 1972) provisions of this Order which re-enact provisions of an Order in Council under the said section 1(3) shall be deemed to be provisions of such an Order.

- F2** Words in art. 2(1) inserted (10.6.2006) by [Planning Reform \(Northern Ireland\) Order 2006 \(S.I. 2006/1252 \(N.I. 7\)\)](#), arts. 1(4), 21(3), **Sch. 1 para. 1**
- F3** Art. 2(2): definition of "address" inserted (1.8.2006) by [Planning \(Electronic Communications\) Order \(Northern Ireland\) 2006 \(S.R. 2006/276\)](#), **art. 2(2)(a)**
- F4** 2003 NI 8
- F5** 1992 NI 1
- F6** Art. 2(2): definition of "electronic communication" inserted (1.8.2006) by [Planning \(Electronic Communications\) Order \(Northern Ireland\) 2006 \(S.R. 2006/276\)](#), **art. 2(2)(b)**
- F7** 1996 NI 2
- F8** 1999 NI 4
- F9** 1993 NI 15
- F10** 1994 NI 1
- F11** SI 2001/1149
- F12** Words in art. 2(2) in definition of "statutory undertaker" added (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1(2), 308, **Sch. 12 para. 29(1)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)
- F13** Art. 2(2A) inserted (1.8.2006) by [Planning \(Electronic Communications\) Order \(Northern Ireland\) 2006 \(S.R. 2006/276\)](#), **art. 2(3)**

[^{F14}**Service of Notices and Documents**

2A.—(1) This Article does not apply to—

(a) Part VII, and so far as relating to that Part, Articles 3(2), 102 to 104, 121, 122, 125 and 130;

(b) Articles 100 and 101, and Article 103 so far as relating to the making of an order under Article 100; or

(c) Articles 110, 111(1) to (3) and (5) and 127(1)(c).

(2) Without prejudice to section 24(2) of the Interpretation Act (Northern Ireland) 1954, any notice or other document required or authorised to be served on or sent or given to any person under the provisions of this Order may be served, sent or given, in a case where an address for service using electronic communications has been given by that person, by sending it using electronic communications, in accordance with the condition set out in paragraph (3), to that person at that address (subject to paragraph (4)).

(3) The condition mentioned in paragraph (2) is that the notice or other document shall be—

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

and for this purpose “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 served or given by means of a notice or document in printed form.

(4) Paragraph (2) shall not apply to—

- (a) service of a copy of a notice under Article 23(4);
- (b) service of a building preservation notice under Article 42A;
- (c) giving of notice of the making of a tree preservation order or the service of a copy of such an order, in accordance with regulations under Article 65;
- (d) service of a planning contravention notice under Article 67C;
- (e) service of a temporary stop notice under Article 67E;
- (f) service of a copy of an enforcement notice under Article 68;
- (g) the variation or withdrawal of an enforcement notice under Article 68B;
- (h) service of a stop notice, or notice of withdrawal of a stop notice under Article 73;
- (i) service under Article 76(4) of a notice of the Department's intention to take steps required by an enforcement notice;
- (j) service of a breach of condition notice under Article 76A;
- (k) service of a copy of a listed building enforcement notice, or notice of variation or withdrawal of a listed building enforcement notice under Article 77;
- (l) service of a copy of a hazardous substances contravention notice, or notice of withdrawal of a hazardous substances contravention notice under Article 81;
- (m) service of a copy of a notice varying a hazardous substances contravention notice under Article 81A;
- (n) service of a notice under Article 125 requiring information as to estates in land.

(5) Where a person uses electronic communications to transmit any notice or other document for any purpose of this Order which is capable of being carried out electronically he shall be taken to have agreed, except where a contrary intention appears, to the use of such communications and that his address for that purpose is the address incorporated into, or otherwise logically associated with the notice or document.

(6) Where a person is no longer willing to accept the use of electronic communications for any purpose of this Order which is capable of being carried out electronically, he shall give notice in writing—

- (a) withdrawing any address notified to the Department or the planning appeals commission for that purpose; or
- (b) revoking any agreement entered into or deemed to have been entered into with the Department or the planning appeals commission for that purpose,

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and such withdrawal or revocation shall be final and shall take effect on a date specified by the person in the notice but not less than seven days after the date on which the notice is given.]

F14 Art. 2A inserted (1.8.2006) by [Planning \(Electronic Communications\) Order \(Northern Ireland\) 2006 \(S.R. 2006/276\)](#), **art. 3**

Status:

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