

## 1995 No. 357

## PLANNING

**Planning (Environmental Assessment and Permitted Development) Regulations (Northern Ireland) 1995**

*Made* . . . . . 7th September 1995

*Coming into operation* . . . . . 16th October 1995

The Department of the Environment, being a department designated (a) for the purposes of section 2(2) of the European Communities Act 1972 (b) in relation to measures relating to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment, in exercise of the powers conferred on it by that section and of all other powers enabling it in that behalf, hereby makes the following regulations:

*Citation and commencement*

1. These regulations may be cited as the Planning (Environmental Assessment and Permitted Development) Regulations (Northern Ireland) 1995 and shall come into operation on 16th October 1995.

*Interpretation*

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c) shall apply to these regulations as it applies to a measure of the Northern Ireland Assembly.

(2) In these regulations—

“the 1991 Order” means the Planning (Northern Ireland) Order 1991 (d);

“the Commission” means the Planning Appeals Commission;

“developer” means a person carrying out or proposing to carry out development;

“the Department” means the Department of the Environment;

“the General Development Order” means the Planning (General Development) Order (Northern Ireland) 1993 (e);

“Schedule 1 and Schedule 2” means Schedule 1 and Schedule 2 to the Planning (Assessment of Environmental Effects) Regulations (Northern Ireland) 1989 (f);

---

(a) S.I. 1988/785

(b) 1972 c. 68

(c) 1954 c. 33 (N.I.)

(d) S.I. 1991/1220 (N.I. 11)

(e) S.R. 1993 No. 278

(f) S.R. 1989 No. 20

*Determination as to application of permitted development rights*

3.—(1) Subject to paragraph (2) before undertaking development falling within any class of Schedule 1 to the General Development Order, a developer may apply in writing to the Department for a determination as to whether a proposed development would fall within any of the descriptions mentioned in Schedule 1 or 2 and, if so—

- (a) within which such description; and
- (b) if the proposed development falls within a description in Schedule 2, whether it would be likely to have a significant effect on the environment by virtue of factors such as its nature, size or location.

(2) An application under paragraph (1) shall be accompanied by—

- (a) a plan sufficient to identify the land on which the proposed development is to be carried out;
- (b) a brief description of the nature and purpose of the proposed development; and
- (c) such other information or representations as the applicant wishes to provide or make.

(3) Subject to paragraph (4) the Department shall inform the applicant in writing of its determination within 4 weeks from the date of receipt of the application or within such extended period as may be agreed in writing between the Department and the applicant.

(4) Where the Department considers that it has not been provided with sufficient information to enable the application to be determined, it shall—

- (a) specify to the applicant in writing within the period or extended period mentioned in paragraph (3) the points on which it requires further information; and
- (b) determine the application within 4 weeks from the date on which the information required is received or within such extended period as may be agreed in writing between the Department and the applicant.

(5) Where the Department determines that the proposed development requires an environmental statement, it shall send the applicant a written statement giving the reasons for its determination.

(6) Where the Department determines that an environmental statement is required and the applicant wishes to proceed with the proposed development he shall by notice in writing inform the Department that he either—

- (a) accepts the Department's determination and proposes to provide an environmental statement; or
- (b) does not accept the Department's determination and proposes to seek a hearing before the Commission.

(7) The notice referred to in paragraph (6) shall be served on the Department within 4 weeks from the date of determination.

(8) If the applicant does not inform the Department in accordance with paragraph (6) his application shall be deemed to be withdrawn.

*Hearing by Commission in relation to Department's determination*

4.—(1) Where an applicant seeks a hearing before the Commission under regulation 3(6) it shall afford the applicant the opportunity of appearing before and being heard by the Commission.

(2) Where a hearing is held the Department shall consider the report of the Commission and may confirm, amend or withdraw its determination.

*Availability of information in relation to determination*

5. The Department shall place a copy of every application made and every determination given under regulation 3 or confirmed or amended under regulation 4 on a Register kept in pursuance of Article 124(1) of the 1991 Order.

Sealed with the Official Seal of the Department of the Environment on  
7th September 1995.

(L.S.)

J. McConnell

Assistant Secretary

---

EXPLANATORY NOTE

*(This note is not part of the regulations.)*

These regulations are concerned with the further implementation of Council Directive 85/337/EEC (O.J. No. L175, 5.7.85, p. 40) on the assessment of the effects of certain public and private projects on the environment. The Regulations permit applicants who wish to undertake development which appears to them to be within a description of permitted development in any part of Schedule 1 to the Planning (General Development) Order (Northern Ireland) 1993 to seek a determination from the Department on whether the proposed development would fall within any of the descriptions mentioned in regulation 31(a) or (b) of the Planning (Assessment of Environmental Effects) Regulations (Northern Ireland) 1989.

The Planning (General Development) (Amendment) Order (Northern Ireland) 1995 removes permitted development rights from classes of development where an environmental assessment would be required if a planning application were to be made in respect of them.

Regulation 3 makes provision about the application to the Department as to the determination of permitted development rights and the nature and timing of the Department's response.

Regulation 4 deals with the Hearing of the Commission in relation to the Department's determination.

Regulation 5 makes provision for the placing of copies of applications and determinations on a register available for inspection by the public.