
STATUTORY RULES OF NORTHERN IRELAND

2001 No. 435

Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) Regulations (Northern Ireland) 2001

The consent decision

12.—(1) The Department shall consider, in the light of the environmental statement, any additional environmental information and any representations received in accordance with regulations 9(3), 10(2) or (3) or 11(2), whether or not to grant consent for a project.

(2) The Department shall not reach a decision under paragraph (1) until the latest of—

- (a) the expiry of the period specified in the notice published under regulation 9(3)(b);
- (b) the expiry of twenty-eight days from the date on which the additional environmental information was sent to any consultation bodies or EEA States or from the date that notice of it was published in accordance with regulation 10(3), whichever is the later; and
- (c) the expiry of any period agreed between the Department and the relevant EEA State pursuant to regulation 11(4)(b).

(3) The Department shall not grant consent for a project that would involve doing anything which would be unlawful under regulations 34, 36 or 38 of the Habitats Regulations (which shall not include anything for which a licence has been granted under regulation 39 of those Regulations).

(4) Paragraphs (5) to (9) shall apply to a decision by the Department whether or not to grant consent for a project which is likely to have a significant effect upon a European site (either alone or in combination with other projects) and in those paragraphs “project” shall be construed accordingly.

(5) Subject to paragraphs (7) and (8), the Department shall only grant consent for a project if, in light of the information referred to in paragraph (1) and (2), it has considered the implications of the project for the European site and is satisfied that the project will not adversely affect the integrity of that site.

(6) The consideration to be undertaken under paragraph (5) shall involve an appropriate assessment of the implications of the project for the European site in view of that site’s conservation objectives.

(7) If the Department is satisfied that, there being no alternative solutions, a project must be carried out for imperative reasons of overriding public interest (which subject to paragraph (8) may be of a social or economic nature), the Department may grant consent for the project notwithstanding a negative assessment of the implications for a European site.

(8) Where the European site concerned hosts a priority natural habitat type or a priority species, the reasons referred to in paragraph (7) must be either—

- (a) reasons relating to human health, public safety or beneficial consequences of primary importance to the environment, or
- (b) other reasons which in the opinion of the European Commission are in the case of the site concerned imperative reasons of overriding public interest.

(9) Where in accordance with paragraph (7) consent is granted for a project notwithstanding a negative assessment of the implications for a European site, the Department shall ensure that any

necessary compensatory measures are taken to ensure that the overall coherence of Natura 2000 (as defined in the Habitats Regulations) is protected.

(10) Any consent granted in accordance with paragraph (1) shall be subject to the conditions required by paragraph (11) and to such additional conditions as the Department may think fit.

(11) Every consent shall be granted subject to conditions to the effect that—

- (a) the consent shall lapse if the project has not commenced (by the carrying out of a material act) within one year of the date on which it was granted;
- (b) if the project has not been completed (which, in this regulation shall mean that works permitted by the consent have been completed and all changes in the use or level of use of the relevant land permitted by the consent have been implemented) within three years of the date on which the consent was granted, the consent shall expire and the Department may require operations or uses implemented pursuant to the consent to cease until it has granted further consent in accordance with sub-paragraph (d);
- (c) the consent authorises the project only as described in the consent application, subject to any amendments approved by the Department pursuant to a request by the applicant, and any material change in the operations or uses so authorised shall require further consent in accordance with sub-paragraph (d);
- (d) applications for further consent under conditions in sub-paragraphs (b) or (c) shall be subject to such of the requirements of these Regulations as the Department shall think fit.

(12) When the Department has decided whether to grant consent it shall—

- (a) notify the applicant, those consultation bodies to whom copies of the consent application were sent in accordance with regulation 9(3)(a) and any EEA State to whom a copy of the consent application was sent in accordance with regulation 11(2) of the decision together with the full reasons and considerations on which the decision is based;
- (b) inform the public of the decision by publishing a notice in a newspaper circulating in the locality in which the relevant land is situated or by such other means as it may consider reasonable in the circumstances; and
- (c) make available for public inspection a statement containing:
 - (i) the content of the decision;
 - (ii) the full reasons and considerations on which the decision is based; and
 - (iii) a description, where relevant, of the principal measures required to be taken to avoid, reduce or offset the major adverse effects of the project.

(13) Where the Department has decided to grant consent for a project which involves the carrying out of operations likely to damage any of the flora, fauna or geological or physiographical features by reason of which an area of special scientific interest (as defined by the Wildlife (Northern Ireland) Order 1985(1)) is of special interest it shall impose a condition on the consent to prevent the project from being commenced before the end of the period of twenty-one days beginning with the date of that notice.