

**2003 No. 136**

**EUROPEAN COMMUNITIES**

**HARBOURS, DOCKS, ETC.**

**The Harbour Works (Environmental Impact Assessment)  
Regulations (Northern Ireland) 2003**

*Made* - - - - - *6th March 2003*

*Coming into operation* *14th April 2003*

**ARRANGEMENTS OF REGULATIONS**

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**SCHEDULES**

Schedule 1 — Information referred to in Article 5(1) of the Directive

Schedule 2 — Selection criteria referred to in Article 4(3) of the Directive

Schedule 3 — Descriptions of development for the purposes of the definition of “Annex I”

Schedule 4 — Descriptions of development for the purposes of the definition of “Annex II”

The Department for Regional Development(**a**) and the Department of Agriculture and Rural Development(**b**), being Departments designated(**c**) for the purposes of section 2(2) of the

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(a) S.I. 1999/283 (N.I.1) Article 3(1)

(b) S.I. 1999/283 (N.I.1) Article 3(4)

(c) S.I. 1988/785

European Communities Act 1972(a) 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, acting jointly in exercise of the powers conferred by that section and having taken into account the selection criteria (reproduced in Schedule 2 to these Regulations) specified in Annex III to Council Directive 85/337/EEC (on the assessment of the effects of certain public and private projects on the environment)(b), as inserted by Council Directive 97/11/EC (amending Council Directive 85/337/EEC)(c), and all other powers enabling them in that behalf, makes the following Regulations:

### **Citation, commencement, revocations and extent**

1.—(1) These Regulations may be cited as the Harbour Works (Environmental Impact Assessment) Regulations (Northern Ireland) 2003, and shall come into operation on 14th April 2003.

(2) These Regulations shall not apply in relation to a proposal to carry out harbour works referred to in regulation 4(1) of the Harbour Works (Assessment of Environmental Effects) Regulations (Northern Ireland) 1990(d) and notified to the appropriate Department prior to 14th April 2003.

(3) Except in relation to a proposal to carry out harbour works referred to in paragraph (2), the following Regulations are hereby revoked –

- (a) the Harbour Works (Assessment of Environmental Effects) Regulations (Northern Ireland) 1990;
- (b) the Harbour Works (Assessment of Environmental Effects) (Amendment) Regulations (Northern Ireland) 1996(e).

### **Interpretation**

2.—(1) In these Regulations –

“the Act of 1970” means the Harbours Act (Northern Ireland) 1970(f);

“the appropriate Department” means –

- (a) as regards harbour works relating to any fishery harbour, the Department of Agriculture and Rural Development; and
- (b) as regards any other harbour works, the Department for Regional Development;

“Annex I” means Annex I to the Directive and comprises development of a description referred to in Schedule 3;

“Annex II” means Annex II to the Directive and comprises development of a description referred to in Schedule 4;

“developer” means any person who proposes to carry out or who carries out harbour works;

“the Directive” means Council Directive 85/337/EEC on the assessment of the effect of certain public and private projects on the environment, as amended by Council Directive 97/11/EC;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993(g);

“EEA State” means a State which is a Contracting Party to the EEA Agreement;

“environmental statement” means a statement that includes such information of the descriptions referred to in Schedule 1 as is considered, in accordance with these Regulations,

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(a) 1972 c. 68  
(b) O.J. No. L175, 5.7.85, p. 40  
(c) O.J. No. L73, 14.3.97, p. 5  
(d) S.R. 1990 No. 181  
(e) S.R. 1996 No. 369  
(f) 1970 c. 1 (N.I.)  
(g) Cmmd. 2073

to be relevant to the proposed harbour works, but which includes at least the essential environmental information;

“essential environmental information” means –

- (a) a description of the proposed harbour works comprising information on its site, design and size;
- (b) a description of the measures which the applicant proposes to take in order to prevent, reduce or remedy significant adverse effects;
- (c) data required to identify and assess the main effects which the proposed harbour works are likely to have on the environment;
- (d) an outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects; and
- (e) a non-technical summary of the information mentioned in sub-paragraphs (a) to (d);

“fishery harbour” has the meaning assigned to it in Article 1(2) of the Ministries (Transfer of Functions) Order (Northern Ireland) 1973(a);

“harbour” and “harbour authority” have the meanings assigned to them in section 38(1) of the Act of 1970;

“harbour order” means an order made under section 1(1) of the Act of 1970;

“harbour works” means works involved in the construction of a harbour or in the making of modifications to an existing harbour;

“relevant project” means a project which would be likely to have significant effects on the environment by virtue of factors such as its nature, size or location;

“selection criteria” means the criteria set out in Schedule 2;

“sensitive area” means any of the following –

- (a) an area designated by order as a National Park under Article 12 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985(b);
- (b) an area of outstanding natural beauty designated as such by an order made under Article 14 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985;
- (c) an area of land declared to be a national nature reserve under Article 18 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985;
- (d) an area designated by order as a marine nature reserve under Article 20 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985(c);
- (e) a nature reserve provided by a district council under Article 22(1) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985;
- (f) an area of special scientific interest, that is to say, an area of land declared to be an area of special scientific interest under Article 24 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985(d);
- (g) a wildlife refuge, that is to say, an area specified in an order made under Article 16 of the Wildlife (Northern Ireland) Order 1985(e);
- (h) a scheduled monument within the meaning of the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995(f);
- (i) a European site within the meaning of Regulation 9 of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995(g);
- (j) Ramsar sites listed under the Convention on Wetlands of International Importance, especially as Waterfowl Habitat(h);

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(a) S.R. & O. (N.I.) 1973 No. 128

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

(c) Article 20 was amended by Section 3 of, and Schedule 1 to, the Territorial Sea Act 1987 (1987 c. 49)

(d) Article 24 was amended by Article 10(1) of S.I. 1989/492 (N.I. 3)

(e) 1985/171 (N.I. 2); Article 16 was amended by Article 4(1)(d) of S.I. 1995/761 (N.I. 6)

(f) S.I. 1995/1625 (N.I. 9)

(g) S.R. 1995 No. 380

(h) See Command Paper 6464

(k) a property appearing on the World Heritage list kept under Article 11(2) of the 1972 UNESCO Convention for the Protection of World Cultural and Natural Heritage<sup>(a)</sup>;

and subject thereto, expressions used which are also used in the Directive have the meaning which they bear in the Directive.

(2) The Interpretation Act (Northern Ireland) 1954<sup>(b)</sup> shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(3) For the purposes of these Regulations a person carries out harbour works if he carries out the whole or any part of such works or any operation in connection with or for the purposes of such works.

(4) Harbour works constituting a project which is of a description mentioned in Annex II to the Directive shall be treated for the purposes of these Regulations as not falling within that Annex unless –

- (a) the area of the harbour works exceed 1 hectare,
- (b) any part of the harbour works is to be carried out in a sensitive area, or
- (c) the appropriate Department determines that the harbour works constituting the project shall be treated for the purposes of these Regulations as falling within that Annex.

### Scope

**3.** These Regulations apply to harbour works below the low water mark of medium tides, being works which are –

- (a) not subject to planning control pursuant to the Planning (Northern Ireland) Order 1972<sup>(c)</sup> or pursuant to any statutory provision made in exercise of powers conferred by the said Order; or
- (b) not the subject of a fish culture licence granted by the Department of Agriculture and Rural Development under section 11 of the Fisheries Act (Northern Ireland) 1966<sup>(d)</sup> and as provided for by Regulation 3 of the Environmental Impact Assessment (Fish Farming in Marine Waters) Regulations (Northern Ireland) 1999<sup>(e)</sup>;

### Procedure for obtaining a prior opinion

**4.—(1)** A developer who is minded to make an application for approval to carry out harbour works may ask the appropriate Department to state in writing its opinion –

- (a) as to whether the application would or would not relate in whole or in part to harbour works to which these Regulations apply; and
- (b) if the appropriate Department considers it would so relate and, assuming the criteria set out in paragraph (2) were satisfied, about the information to be supplied in the environmental statement.

(2) The criteria referred to in paragraph (1)(b) are that the proposed harbour works constitute a project falling within Annex I to the Directive, or within Annex II to the Directive and (taking into account the selection criteria) the appropriate Department determines that they would be likely to constitute a relevant project.

- (3) A request under paragraph (1) shall be accompanied by –
  - (a) a plan sufficient to identify the location of the proposed harbour works,
  - (b) a brief description of the nature and purpose of the proposed harbour works and of their possible effects on the environment,
  - (c) plans and sections showing the lines, situation and levels of the proposed harbour works, and

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(a) See Command paper 9424

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

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

(d) 1966 c. 17 (N.I.); Section 11 was substituted by Article 6 of S.I. 1991/1466 (N.I. 13)

(e) S.R. 1999 No. 415

(d) such other information or representations as the person making the request may wish to provide or make.

(4) The appropriate Department receiving a request under paragraph (1) shall, if it considers that it has not been provided with sufficient information to give an opinion on the questions raised, notify the person making the request of the particular points on which it requires further information.

(5) Subject to paragraph (6), the appropriate Department shall give the opinion requested under paragraph (1) as soon as reasonably practicable.

(6) The appropriate Department shall not give an opinion in response to a request under paragraph (1) until it has consulted the person who made the request and such bodies as appear to it to be likely to have an interest in the project by reason of their environmental responsibilities.

(7) In so far as the request relates to paragraph (1)(b), the appropriate Department shall indicate the extent of the information set out in Schedule 1 which the person who requested the opinion would be required under regulation 5 to supply; in so doing the appropriate Department shall take into account the extent to which it considers –

- (a) information to be relevant to its decision under regulation 11 and to the specific characteristics of the particular proposed harbour works and of the environmental features likely to be affected by the works, and
- (b) that (having regard inter alia to current knowledge and methods of assessment) the person who requested the opinion may reasonably be required to compile the information.

#### **Applications relating to harbour works where a prior opinion has been given**

5.—(1) This regulation shall apply where an application is made for approval to undertake harbour works and an opinion has been given to the developer under regulation 4(1) that the appropriate Department would consider that such an application relating to the same, or substantially the same proposed works, would relate in whole or in part to harbour works to which these Regulations apply.

(2) In any case to which this regulation applies, the developer shall not commence the proposed harbour works unless paragraph (3) or (7) applies or the appropriate Department consents thereto under regulation 11(2).

(3) Where it appears to the appropriate Department that the proposed harbour works do not constitute a project falling within Annex I or Annex II to the Directive, it shall in writing notify its decision to the developer and, subject to paragraph (6) it shall take no further action on the application pursuant to these Regulations.

(4) Where it appears to the appropriate Department that the proposed harbour works constitute a project falling within Annex I to the Directive –

- (a) it shall in writing notify its decision and the reasons for its decision to the developer, and
- (b) paragraphs (9) and (10) shall apply.

(5) Where it appears to the appropriate Department that the proposed harbour works constitute a project falling within Annex II to the Directive –

- (a) it shall determine whether, taking into account the selection criteria, the works constitute a relevant project,
- (b) it shall in writing notify its decision to the developer, and
- (c) where it determines that, taking into account the selection criteria, the works constitute a relevant project, it shall in writing notify the reasons for its decision, to the developer.

(6) The appropriate Department shall make available for public inspection at all reasonable hours at a place within the locality of the harbour where the harbour works are proposed to be carried out, a copy of –

- (a) its decision under paragraph (3), (4) or (5)(a), and
- (b) any accompanying statement of reasons under paragraph (4) or (5)(c);

(7) Where the appropriate Department determines pursuant to paragraph (5)(a) that the works do not constitute a relevant project, then subject to the provisions of paragraphs (5) and (6) it shall take no further action on the application pursuant to these Regulations.

(8) Where the appropriate Department determines pursuant to paragraph (5)(a) that the works constitute a relevant project, paragraphs (9) to (11) shall apply.

(9) Where this paragraph applies, the appropriate Department shall direct the developer to supply it with an environmental statement in such form as it may specify.

(10) Subject to paragraph (11), the appropriate Department may require the developer to supply it with specified information in addition to the information specified in the opinion given to the developer pursuant to regulation 4(1)(b) in relation to the same, or substantially the same, proposed harbour works as are referred to in the application.

(11) The appropriate Department may specify information under paragraph (10) only if it is information of a type set out in Schedule 1 and the appropriate Department considers that –

- (a) it is relevant to its decision under regulation 11 and to the specific characteristics of the proposed harbour works to which the application relates and to the environmental features likely to be affected; and
- (b) (having regard inter alia to current knowledge and methods of assessment) the developer may reasonably be required to compile the information.

#### **Applications relating to harbour works where a prior opinion has not been given**

**6.—(1)** This regulation shall apply where an application is made for approval to undertake harbour works and an opinion has not been given to the developer under regulation 4(1) in relation to the application.

(2) In any case to which this regulation applies –

- (a) the appropriate Department shall consider whether the application relates in whole or in part to harbour works to which these Regulations apply and shall reach a decision thereon as soon as reasonably practicable, and
- (b) if the appropriate Department determines that the application relates in whole or in part to harbour works to which these Regulations apply, the developer shall not commence the proposed works unless paragraph (4) or (8) applies or the appropriate Department consents thereto under regulation 11(2).

(3) The appropriate Department may require the developer to provide it with such of the following information as it deems necessary to enable it to consider whether the proposed harbour works constitute a project falling within Annex I or Annex II to the Directive, and if within Annex II, to determine whether (after taking into account the selection criteria) they constitute a relevant project –

- (a) a plan sufficient to identify the location of the proposed harbour works;
- (b) a brief description of the nature and purpose of the proposed harbour works and of their possible effects on the environment;
- (c) plans and sections showing the lines, situation and levels of the proposed harbour works; and
- (d) such further information as it may specify in a particular case.

(4) Where it appears to the appropriate Department that the proposed harbour works do not constitute a project falling within Annex I or Annex II to the Directive, it shall in writing notify its decision to the developer and subject to paragraph (7) it shall take no further action on the application pursuant to these Regulations.

(5) Where it appears to the appropriate Department that the proposed harbour works constitute a project falling within Annex I to the Directive –

- (a) it shall in writing notify its decision and the reason for its decision to the developer, and
- (b) paragraph (10) shall apply.

(6) Where it appears to the appropriate Department that the proposed harbour works constitute a project falling within Annex II to the Directive –

- (a) it shall determine whether, taking into account the selection criteria, the works constitute a relevant project,
- (b) shall in writing notify its decision to the developer, and
- (c) where it determines that, taking into account the selection criteria, the works constitute a relevant project it shall in writing notify the reasons for its decision to the developer.

(7) The appropriate Department shall make available for public inspection at all reasonable hours at a place within the locality of the harbour where the harbour works are proposed to be carried out, a copy of –

- (a) its decision under paragraph (4), (5) or (6)(a), and
- (b) any accompanying statement of reasons under paragraph (5) or (6)(c).

(8) Where the appropriate Department decides pursuant to paragraph (6)(a) that the works do not constitute a relevant project, then subject to the provisions of paragraphs (6) and (7) it shall take no further action on the application pursuant to these Regulations.

(9) Where the appropriate Department decides pursuant to paragraph (6)(a) that the works constitute a relevant project, paragraph (10) shall apply.

(10) Where this paragraph applies, the appropriate Department shall direct the developer to supply it, in such form as it may specify, with an environmental statement which includes so much of the information referred to in Schedule 1 as the appropriate Department considers –

- (a) is relevant to its decision under regulation 11 and to the specific characteristics of the proposed harbour works to which the application relates and to the environmental features likely to be affected; and
- (b) (having regard inter alia to current knowledge and methods of assessment) the developer may reasonably be required to compile.

#### **Publicity where an environmental statement is supplied**

7.—(1) Where an environmental statement is to be supplied under regulation 5(9) or 6(10) the developer shall make it available to the public and the appropriate Department shall, when it receives the environmental statement, publish a notice in a local newspaper circulating in the locality of the harbour where the harbour works are proposed to be carried out, stating –

- (a) the name of the developer and the location and nature of the proposed harbour works;
- (b) that the developer has applied for consent or approval to the carrying out of the proposed works and specifying the relevant provision pursuant to which consent or approval was applied for;
- (c) that the developer has been directed to supply an environmental statement which includes the information referred to in regulation 5(9) or 6(10);
- (d) that a copy of any information supplied under regulation 4(3) or 6(3) together with the environmental statement to be supplied under regulation 5(9) or 6(10) may be inspected by members of the public at all reasonable hours;
- (e) an address within the locality of the harbour where the harbour works are proposed to be carried out at which the documents open to inspection may be inspected, and the latest date on which they will be available (being a date not less than 4 weeks later than the date on which the notice is published);
- (f) an address within the locality of the harbour where the harbour works are proposed to be carried out (whether or not the same as that named under sub-paragraph (e)) at which copies of the environmental statement to be supplied under regulation 5(9) or 6(10) may be obtained, for so long as stocks last, and, if a charge is to be made for a copy, the amount of the charge; and
- (g) that any person who wishes to make representations concerning the proposed harbour works should do so in writing, within a period of 7 days beginning with the day after the date specified in accordance with sub-paragraph (e), to the appropriate Department.

(2) On the date of publication of the notice under paragraph (1) the developer shall post at a place to which members of the public have access at the offices of the harbour authority for the harbour where the harbour works are proposed to be carried out or if there is no such place,

shall post outside the offices of the said harbour authority, a notice containing the information specified in paragraph (1).

- (3) The developer shall ensure that the notice referred to in paragraph (2) is –
  - (a) left in a position for a period of 4 weeks beginning with the date of posting;
  - (b) posted by affixing it firmly to some object on the premises and is sited and displayed in such a way as to be easily visible to and legible by members of the public; and
  - (c) replaced if it is at any time removed, damaged or defaced.
- (4) The developer shall, as soon as reasonably practicable after publication of the notice referred to in paragraph (1), send to the appropriate Department a Certificate which states –
  - (a) that he has posted a notice at or outside the offices of the harbour authority for the harbour where the harbour works are proposed to be carried out in accordance with paragraph (2), and when he did so; and
  - (b) that he has complied with the requirements of paragraph (3)(b) and will comply with the requirements of paragraph (3)(c) should this be necessary.

#### **Transboundary cases and involvement of other EEA States**

- 8.—(1) This regulation applies where –
- (a) harbour works are proposed to be carried out in Northern Ireland,
  - (b) it appears to the appropriate Department that the harbour works constitute a project falling within Annex I or Annex II to the Directive, and in the case of a project falling within Annex II it determines that (taking into account the selection criteria) they would constitute a relevant project, and
  - (c)
    - (i) it comes to the attention of the appropriate Department that the project is likely to have significant effects on the environment in another EEA State; or
    - (ii) another EEA State likely to be significantly affected by the project so requests.
- (2) The appropriate Department shall –
- (a) publish in the Belfast Gazette the particulars mentioned in paragraph (3) in a notice with an indication of where further information is available;
  - (b) send to the other EEA State as soon as possible, and no later than the date of publication of that notice, the particulars mentioned in paragraph (3) and, if it thinks fit, the information mentioned in paragraph (4); and
  - (c) give the other EEA State a reasonable time in which to indicate whether it wishes to be consulted in accordance with paragraph (6).
- (3) The particulars referred to in paragraph (2)(a) and (b) are –
- (a) a description of the project, together with any available information on its possible significant effect on the environment in another EEA State; and
  - (b) information about the nature of the decision which may be taken under these Regulations.
- (4) The information to be sent to an EEA State which indicates, in accordance with paragraph 2(c), that it wishes to be consulted in accordance with paragraph (6) is –
- (a) a copy of the application referred to in regulation 5(1) or 6(1) which has been made;
  - (b) a copy of the environmental statement in respect of the works to which that application relates; and
  - (c) information regarding the procedure under these Regulations;

but only to the extent that such information has not already been provided to the EEA State in accordance with paragraph (2)(b).

- (5) The appropriate Department shall also –
  - (a) arrange for the information referred to in paragraphs (3) and (4) to be made available, within a reasonable time, to the authorities likely to have an interest in the project by reason of their environmental responsibilities, and the public concerned, in the territory of the EEA State concerned; and



- (b) ensure that those authorities and the public concerned are given a reasonable opportunity, before consent for the works is granted, to forward to the appropriate Department within a reasonable time, their opinion on the information supplied.
- (6) The appropriate Department shall –
  - (a) consult the EEA State concerned about the project generally and, in particular, about the potential significant effects of the project on the environment of that EEA State and the measures envisaged to reduce or eliminate such effects; and
  - (b) endeavour to agree with that EEA State a reasonable period of time for the duration of the consultation period.
- (7) Where an EEA State has been consulted in accordance with paragraph (6), on the determination of the application concerned the appropriate Department shall inform the EEA State of the decision and shall forward to it a statement giving –
  - (a) the content of the decision whether or not to grant consent and any conditions attached to the decision;
  - (b) the main reasons and consideration on which the decision is based;
  - (c) a description, where necessary, of the main measures to prevent, reduce or offset the major adverse effects; and
  - (d) confirmation that any information, representations, opinions, consultations and report of an inquiry have been taken into consideration in accordance with regulation 11(3) in reaching the decision.

**Projects in another EEA State likely to have significant transboundary effects**

**9.—**(1) Where the appropriate Department receives from another EEA State pursuant to Article 7.2 of the Directive information which the EEA State has gathered from the developer of a proposed project in that EEA State which is likely to have significant effects on the environment in Northern Ireland, the appropriate Department shall, in accordance with Article 7.4 of the Directive –

- (a) enter into consultations with that EEA State regarding, inter alia, the potential significant effects of the proposed project on the environment in Northern Ireland and the measures envisaged to reduce or eliminate such effects; and
  - (b) determine in agreement with that EEA State a reasonable period, before development consent for the project is granted, during which members of the public in Northern Ireland may submit to the competent authority in that EEA State representations pursuant to Article 7.3(b) of the Directive.
- (2) The appropriate Department, insofar as it is concerned, shall also –
- (a) arrange for the information referred to in paragraph (1) to be made available, within a reasonable time, both to the authorities in Northern Ireland which it considers are likely to be concerned by the project by reason of their specific environmental responsibilities, and to the public concerned in Northern Ireland; and
  - (b) ensure that those authorities and the public concerned in Northern Ireland are given an opportunity before development consent for the project is granted, to forward to the competent authority in the relevant EEA State, within a reasonable time, their opinion on the information supplied.

**Consultation on and holding of inquiry into proposed harbour works**

**10.—**(1) The appropriate Department shall direct the developer to supply such bodies as it may specify, being bodies appearing to it to be likely to have an interest in the project by reason of their environmental responsibilities, with copies of the environmental statement supplied to it under regulation 5(9) or 6(10).

(2) Where the developer is not the harbour authority, the appropriate Department shall direct the developer to supply the harbour authority with copies of the information supplied to it under regulation 5(9) or 6(10).

(3) Where it has given a direction under paragraph (1) or (2) the appropriate Department shall consult the bodies specified under paragraph (1), or the harbour authority as the case may be, before reaching a decision on the merits of the proposed harbour works.

(4) The appropriate Department may if it thinks fit cause an inquiry to be held by a person appointed by it into a proposal to carry out harbour works and it shall afford to the developer, to any persons who have made representations to it, and to the bodies specified in any direction under paragraph (1) and to the harbour authority mentioned in any direction given under paragraph (2), the opportunity to appear before the person appointed by it for the purpose.

(5) Paragraphs 3 to 8 of Schedule 8 to the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(a)</sup> (which relate to the giving of evidence at, and the expenses incurred in relation to inquiries) shall apply to an inquiry held under paragraph (4) as they apply in relation to an inquiry under that Schedule.

### **Decisions on applications**

**11.**—(1) Where the appropriate Department is satisfied that the developer has complied with its direction under regulation 5(9) or 6(10), with regulation 7 and with any direction under regulation 10(1) or (2), and it has received the report of any inquiry held under regulation 10(4), it shall reach a decision on the proposed harbour works, in accordance with paragraphs (2) and (3).

(2) Subject to paragraph (3), the appropriate Department shall –

- (a) consent to the carrying out of the proposed harbour works either unconditionally or subject to such conditions as it sees fit; or
- (b) refuse such consent.

(3) The appropriate Department shall not consent to the carrying out of the proposed harbour works unless it has taken into consideration the information supplied to it under regulation 5(9) or 6(10), any representations received pursuant to regulation 7(1) or (2), any opinion received pursuant to regulation 8(5), any consultations under regulation 8(6) or 10(3), and the report of any inquiry held under regulation 10(4); and it shall state in its decision that it has done so.

(4) The appropriate Department shall –

- (a) notify its decision and the reasons and considerations upon which it was based to the developer;
- (b) inform the public of the decision, by publishing a notice in a local newspaper circulating in the locality of the harbour where the harbour works are proposed to be carried out, or by such other means as are reasonable in the circumstances; and
- (c) make available for public inspection at all reasonable hours at a place near the location of the proposed works, the following information –
  - (i) the content of its decision whether or not to grant consent and any conditions attached to the decision;
  - (ii) the main reasons and considerations on which the decision is based;
  - (iii) a description, where necessary, of the main measures to prevent, reduce or offset the major adverse effects; and
  - (iv) where it consents to the carrying out of the proposed works, confirmation that any information, representations, opinions, consultations, or report of an inquiry referred to in paragraph (3) have been taken into consideration in reaching the decision.

(5) Any condition subject to which the appropriate Department has consented to harbour works –

- (a) shall (subject to sub-paragraph (c)) either remain in force for a specified period or remain in force without limit of time;
- (b) shall (in addition to binding the developer to whom the consent is given) bind, so far as is appropriate, any other person who for the time being owns, occupies, or enjoys any use of the harbour works which have been carried out;

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(a) S.I. 1972/1265 (N.I. 14)

(c) may, if the appropriate Department thinks fit, be revoked by it.

(6) A consent under paragraph (2) may be granted so as to continue in force, unless renewed, only if the harbour works for which the consent is granted are begun or completed within such period as may be specified in the consent, and any renewal of a consent may be limited in the same way.

### **Harbour works carried out without a decision**

**12.**—(1) If a developer carries out harbour works to which it appears to the appropriate Department that these Regulations apply and which have not been the subject of a decision or consent under regulation 5(3) or (7), 6(4) or (8), 11(2) or this regulation –

- (a) the appropriate Department shall serve notice in writing on the developer requiring him –
  - (i) if appropriate, to cease carrying out the harbour works forthwith; and
  - (ii) to supply the appropriate Department with such of the information referred to in regulation 6(3) as it may specify and within such period as it may specify; and
- (b) the provisions of regulations 6(4) to (10), 7, 8, 10, 11 and 13 to 15 shall apply subject to the modifications set out in paragraph (2), whether or not an application referred to in regulation 5(1) or 6(1) is made.

(2) The modifications referred to in paragraph (1)(b) are –

- (a) for “proposed harbour works”, wherever these words occur, there shall be substituted “harbour works”;
- (b) for “are proposed to be”, wherever these words occur, there shall be substituted “have been”;
- (c) where an application referred to in regulation 5(1) or 6(1) is not made, regulation 7(1)(b) and 8(4)(a) shall be omitted; and
- (d) in regulation 6(10), after “in such form” there shall be inserted “and within such period”.

(3) If the developer no longer owns, occupies or enjoys any use of the harbour works which have been carried out when the appropriate Department decides to serve a notice under paragraph (1) the notice may be served on any other person who for the time being owns, occupies or enjoys any use of the harbour works, and the references to the developer in paragraphs (1), (4) and (5) shall have effect as a reference to the person on whom the notice is served.

(4) If a developer fails to supply the appropriate Department with such of the information referred to in regulation 6(3) as is specified in a notice served under paragraph (1) within the period specified therein, the appropriate Department shall make such investigations as it considers necessary to enable it to determine whether the harbour works constitute a project falling within Annex I or Annex II to the Directive, and in the case of a project falling within Annex II to the Directive whether (taking into account the selection criteria) the harbour works constitute a relevant project.

(5) Where regulation 6(10) applies as modified by paragraph (2)(d), and the developer fails to comply with the appropriate Department’s direction, the appropriate Department shall refuse consent in respect of the harbour works.

### **Variation of consent**

**13.**—(1) Where a developer proposes to change or extend any harbour works which are the subject of a consent under regulation 11(2), or regulation 11(2) as modified by regulation 12, he shall make an application to the appropriate Department to vary that consent.

(2) The appropriate Department shall determine whether, taking into account the selection criteria, the proposed change or extension constitutes a relevant project.

(3) Where the appropriate Department determines that, taking into account the selection criteria, the proposed change or extension constitutes a relevant project, regulations 6(6), (7), (9), (10), 7, 8, 10, 11, 14 and 15 shall apply in relation to the application as they apply in relation to an application referred to in regulation 6(1).

## **Enforcement**

14.—(1) If a developer carries out harbour works in respect of which consent has been refused under regulation 11 or 12 or in contravention of a condition subject to which consent was granted, the appropriate Department may serve notice in writing on the developer requiring him, within such period (not being less than 30 days) as may be specified in the notice, to remove the works and reinstate the site or to make such alterations thereto as may be so specified, or, if it appears to the appropriate Department urgently necessary to do so, it may itself remove the works and reinstate the site or make alterations to the works.

(2) If within the period specified in any notice under paragraph (1) the developer fails to comply with it, the appropriate Department may itself remove the works and reinstate the site or make alterations to the works as specified in the notice.

(3) Where the appropriate Department removes the works and reinstates a site or makes alterations to the works under paragraph (1) or (2), it shall be entitled to recover the expense, as certified by it, from the developer.

(4) If the developer no longer owns, occupies or enjoys any use of the harbour works when the appropriate Department decides to serve a notice under paragraph (1), the notice may be served on any other person who for the time being owns, occupies or enjoys any use of the harbour works, and the references to the developer in paragraph (2), and in paragraph (3) in relation to any action taken by the appropriate Department under paragraph (2), shall in that case have effect as a reference to the person on whom the notice is served.

## **Penalties**

15.—(1) A person who issues a certificate purporting to comply with regulation 7(4) which contains a statement which he knows to be false or misleading in a material particular, or who recklessly issues a certificate purporting to comply with regulation 7(4) which contains a statement which is false or misleading in a material particular shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) A person who fails without reasonable excuse to comply with a notice served upon him under regulation 12(1) or 14(1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Where a body corporate is guilty of an offence under paragraph (1) or (2), and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

- (a) any director, manager, secretary or other similar officer of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

he, as well as the body corporate, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(4) For the purposes of paragraph (3), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Sealed with the Official Seal of the Department for Regional Development on 6th March 2003.

(L.S.)

*R. McMinnis*

A senior officer of the Department for Regional Development

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 6th March 2003.

(L.S.)

*Noel Cornick*

A senior officer of the Department of Agriculture and Rural Development

## SCHEDULE 1

Regulation 2(1)

### INFORMATION REFERRED TO IN ARTICLE 5(1) OF THE DIRECTIVE

1. Description of the proposed project including in particular:
  - a description of the physical characteristics of the whole project and the land-use requirements during the construction and operational phases,
  - a description of the main characteristics of the production processes, for instance, nature and quantity of the material used,
  - an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc) resulting from the operation of the proposed project.
2. An outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects.
3. A description of the aspects of the environment likely to be significantly affected by the proposed project, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.
4. A description of the likely significant effects of the proposed project on the environment (which should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the project), resulting from:
  - the existence of the project
  - the use of natural resources,
  - the emission of pollutants, the creation of nuisances and the elimination of waste,and the description by the developer of the forecasting methods used to assess the effects on the environment.
5. A description of the measures which the developer proposes to take in order to prevent, reduce, remedy or offset any significant adverse effects on the environment.
6. A non-technical summary of the information provided under paragraphs 1 to 5.
7. An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the developer in compiling the required information.

## SCHEDULE 2

Regulation 2(1)

### SELECTION CRITERIA REFERRED TO IN ARTICLE 4(3) OF THE DIRECTIVE

#### **Characteristics of projects**

1. The characteristics of projects must be considered having regard, in particular, to:
  - the size of the project,
  - the cumulation with other projects,
  - the use of natural resources,
  - the production of waste,
  - pollution and nuisances,
  - the risk of accidents, having regard in particular to substances or technologies used.

#### **Location of projects**

2. The environmental sensitivity of geographical areas likely to be affected by projects must be considered, having regard, in particular, to:
  - the existing land use,
  - the relative abundance, quality and regenerative capacity of natural resources in the area,

- the absorption capacity of the natural environment, paying particular attention to the following areas –
  - (a) wetlands;
  - (b) coastal zones;
  - (c) mountain and forest areas;
  - (d) nature reserves and parks;
  - (e) areas classified or protected under EEA States’ legislation; areas designated by member States pursuant to Council Directive 79/409/EEC on the conservation of wild birds<sup>(a)</sup> and Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora<sup>(b)</sup>;
  - (f) areas in which the environmental quality standards laid down in Community legislation have already been exceeded;
  - (g) densely populated areas;
  - (h) landscapes of historical, cultural or archaeological significance.

### **Characteristics of the potential impact**

3. The potential significant effects of projects must be considered in relation to criteria set out under paragraphs 1 and 2, and having regard in particular to:

- the extent of the impact (geographical area and size of the affected population),
- the transfrontier nature of the impact,
- the magnitude and complexity of the impact,
- the probability of the impact,
- the duration, frequency and reversibility of the impact.

## **SCHEDULE 3**

Regulation 2(1)

DESCRIPTIONS OF DEVELOPMENT FOR THE PURPOSES OF THE DEFINITION OF

“ANNEX I”

### **Interpretation**

In this Schedule –

“airport” means an airport which complies with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organisation (Annex 14)<sup>(c)</sup>;

“express road” means a road which complies with the definition in the European Agreement on Main International Traffic Arteries of 15 November 1975<sup>(d)</sup>;

“nuclear power station” and “other nuclear reactor” do not include an installation from the site of which all nuclear fuel and other radioactive contaminated materials have been permanently removed; and development for the purpose of dismantling or decommissioning a nuclear power station or other nuclear reactor shall not be treated as development of the description mentioned in paragraph 2(b) of this Schedule.

### **Descriptions of development**

The carrying out of development to provide any of the following –

1. Crude-oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.

2. (a) Thermal power stations and other combustion installations with a heat output of 300 megawatts or more; and

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<sup>(a)</sup> O.J. No. L103, 25.4, 1979, p. 1

<sup>(b)</sup> O.J. No. L206, 22.7, 1992, p. 7

<sup>(c)</sup> Command Paper 6614

<sup>(d)</sup> Command Paper 6993

- (b) Nuclear power stations and other nuclear reactors (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).
3. (a) Installations for the reprocessing of irradiated nuclear fuel.  
 (b) Installations designed –  
 (i) for the production or enrichment of nuclear fuel,  
 (ii) for the processing of irradiated nuclear fuel or high-level radioactive waste,  
 (iii) for the final disposal of irradiated nuclear fuel,  
 (iv) solely for the final disposal of radioactive waste,  
 (v) solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site.
4. (a) Integrated works for the initial smelting of cast-iron and steel;  
 (b) Installations for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes.
5. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos –  
 (a) for asbestos-cement products, with an annual production of more than 20,000 tonnes of finished products;  
 (b) for friction material, with an annual production of more than 50 tonnes of finished products; and  
 (c) for other uses of asbestos, utilisation of more than 200 tonnes per year.
6. Integrated chemical installations, that is to say, installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are –  
 (a) for the production of base organic chemicals;  
 (b) for the production of basic inorganic chemicals;  
 (c) for the production of phosphorous-, nitrogen- or potassium-based fertilisers (simple or compound fertilisers);  
 (d) for the production of basic plant health products and of biocides;  
 (e) for the production of basic pharmaceutical products using a chemical or biological process;  
 (f) for the production of explosives.
7. (a) Construction of lines for long-distance railway traffic and of airports with a basic runway length of 2,100 metres or more;  
 (b) Construction of motorways and express roads;  
 (c) Construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road, or realigned and/or widened section of road would be 10 kilometres or more in a continuous length.
8. (a) Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tonnes.  
 (b) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes.
9. Waste disposal installations for the incineration, chemical treatment (as defined in Annex IIA to Directive 75/442/EEC<sup>(a)</sup> under heading D9), or landfill of hazardous waste (that is to say, waste to which Directive 91/689/EEC<sup>(b)</sup> applies).
10. Waste disposal installations for the incineration or chemical treatment (as defined in Annex IIA to Directive 75/442/EEC under heading D9) of non-hazardous waste with a capacity exceeding 100 tonnes per day.
11. Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.

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(a) O.J. No. L194, 25.7.75, p. 39. Council Directive 75/442/EEC was amended by Council Directive 91/156/EEC (O.J. No. L78, 26.3.91, p. 32) and by Commission Decision 94/3/EC (O.J. No. L5, 7.1.94, p. 15)

(b) O.J. No. L337, 31.12.91, p. 20. Council Directive 91/689/EEC was amended by Council Directive 94/31/EC (O.J. No. L168, 2.7.1994, p. 28)

12. (a) Works for the transfer of water resources, other than piped drinking water, between river basins where the transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres per year;
- (b) In all other cases, works for the transfer of water resources, other than piped drinking water, between river basins, where the multi-annual average flow of the basin of abstraction exceeds 2,000 million cubic metres per year and where the amount of water transferred exceeds 5% of this flow.
13. Waste water treatment plants with a capacity exceeding 150,000 population equivalent as defined in Article 2 point (6) of Directive 91/271/EEC(a);
14. Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes per day in the case of petroleum and 500,000 cubic metres per day in the case of gas.
15. Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.
16. Pipelines for the transport of gas, oil or chemicals with a diameter of more than 800 millimetres and a length of more than 40 kilometres.
17. Installations for the intensive rearing of poultry or pigs with more than –
- (a) 85,000 places for broilers or 60,000 places for hens;
- (b) 3,000 places for production pigs (over 30 kg); or
- (c) 900 places for sows.
18. Industrial plants for –
- (a) the production of pulp from timber or similar fibrous materials;
- (b) the production of paper and board with a production capacity exceeding 200 tonnes per day.
19. Quarries and open-cast mining where the surface of the site exceeds 25 hectares, or peat extraction where the surface of the site exceeds 150 hectares.
20. Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 kilometres.
21. Installations for storage of petroleum, petrochemical or chemical products with a capacity of 200,000 tonnes or more.

#### SCHEDULE 4

Regulation 2(1)

##### DESCRIPTIONS OF DEVELOPMENT FOR THE PURPOSES OF THE DEFINITION OF

##### “ANNEX II”

The carrying out of development to provide any of the following –

1. Agriculture, silviculture and aquaculture
  - (a) Projects for the restructuring of rural land holdings;
  - (b) Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes;
  - (c) Water management projects for agriculture, including irrigation and land drainage projects;
  - (d) Initial afforestation and deforestation for the purposes of conversion to another type of land use;
  - (e) Intensive livestock installations (projects not included in Schedule 3);
  - (f) Intensive fish farming;
  - (g) Reclamation of land from the sea.
2. Extractive industry
  - (a) Quarries, open-cast mining and peat extraction (projects not included in Schedule 3);

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(a) O.J. No. L135, 30.5.91, p. 40



- (b) Underground mining;
- (c) Extraction of minerals by marine or fluvial dredging;
- (d) Deep drillings, in particular:
  - geothermal drilling,
  - drilling for the storage of nuclear waste material,
  - drilling for water supplies,
  - with the exception of drillings for investigating the stability of the soil;
- (e) Surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale.

### 3. Energy industry

- (a) Industrial installations for the production of electricity, steam and hot water (projects not included in Schedule 3);
- (b) Industrial installations for carrying gas, steam and hot water, transmission of electrical energy by overhead cables (projects not included in Schedule 3);
- (c) Surface storage of natural gas;
- (d) Underground storage of combustible gases;
- (e) Surface storage of fossil fuels;
- (f) Industrial briquetting of coal and lignite;
- (g) Installations for the processing and storage of radioactive waste (unless included in Schedule 3);
- (h) Installations for hydroelectric energy production;
- (i) Installations for the harnessing of wind power for energy production (wind farms).

### 4. Production and processing of metals

- (a) Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting;
- (b) Installations for the processing of ferrous metals:
  - (i) hot-rolling mills;
  - (ii) smithies with hammers;
  - (iii) application of protective fused metal coats;
- (c) Ferrous metal foundries;
- (d) Installations for the smelting, including the alloyage, of non-ferrous metals, excluding precious metals, including recovered products (refining, foundry casting, etc);
- (e) Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process;
- (f) Manufacture and assembly of motor vehicles and manufacture of motor-vehicle engines;
- (g) Shipyards;
- (h) Installations for the construction and repair of aircraft;
- (i) Manufacture of railway equipment;
- (j) Swaging by explosives;
- (k) Installations for the roasting and sintering of metallic ores.

### 5. Mineral industry

- (a) Coke ovens (dry coal distillation);
- (b) Installations for the manufacture of cement;
- (c) Installations for the production of asbestos and the manufacture of asbestos-products (projects not included in Schedule 3);
- (d) Installations for the manufacture of glass including glass fibre;
- (e) Installations for smelting mineral substances including the production of mineral fibres;
- (f) Manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain.

### 6. Chemical industry (Projects not included in Schedule 3)

- (a) Treatment of intermediate products and production of chemicals;
- (b) Production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides;
- (c) Storage facilities for petroleum, petrochemical and chemical products.

7. Food industry

- (a) Manufacture of vegetable and animal oils and fats;
- (b) Packing and canning of animal and vegetable products;
- (c) Manufacture of dairy products;
- (d) Brewing and malting;
- (e) Confectionery and syrup manufacture;
- (f) Installations for the slaughter of animals;
- (g) Industrial starch manufacturing installations;
- (h) Fish-meal and fish-oil factories;
- (i) Sugar factories.

8. Textile, leather, wood and paper industries

- (a) Industrial plants for the production of paper and board (projects not included in Schedule 3);
- (b) Plants for the pretreatment (operations such as washing, bleaching, mercerization) or dyeing of fibres or textiles;
- (c) Plants for the tanning of hides and skins;
- (d) Cellulose-processing and production installations.

9. Rubber industry

Manufacture and treatment of elastomer-based products.

10. Infrastructure projects

- (a) Industrial estate development projects;
- (b) Urban development projects, including the construction of shopping centres and car parks;
- (c) Construction of railways and intermodal transshipment facilities, and of intermodal terminals (projects not included in Schedule 3);
- (d) Construction of airfields (projects not included in Schedule 3);
- (e) Construction of roads, harbours and port installations, including fishing harbours (projects not included in Schedule 3);
- (f) Inland-waterway construction not included in Schedule 3, canalisation and flood-relief works;
- (g) Dams and other installations designed to hold water or store it on a long-term basis (projects not included in Schedule 3);
- (h) Tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport;
- (i) Oil and gas pipeline installations (projects not included in Schedule 3);
- (j) Installations of long-distance aqueducts;
- (k) Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works;
- (l) Groundwater abstraction and artificial groundwater recharge schemes not included in Schedule 3;
- (m) Works for the transfer of water resources between river basins not included in Schedule 3.

11. Other projects

- (a) Permanent racing and test tracks for motorised vehicles;
- (b) Installations for the disposal of waste (projects not included in Schedule 3);
- (c) Waste-water treatment plants (projects not included in Schedule 3);
- (d) Sludge-deposition sites;
- (e) Storage of scrap iron, including scrap vehicles;
- (f) Test benches for engines, turbines or reactors;
- (g) Installations for the manufacture of artificial mineral fibres;
- (h) Installations for the recovery or destruction of explosive substances;
- (i) Knackers' yards.

12. Tourism and leisure

- (a) Ski-runs, ski-lifts and cable-cars and associated developments;
- (b) Marinas;

- (c) Holiday villages and hotel complexes outside urban areas and associated developments;
- (d) Permanent camp sites and caravan sites;
- (e) Theme parks.

13. Any change or extension of projects listed in Schedule 3 or Schedule 4 already authorised, executed or in the process of being executed, which may have significant adverse effects on the environment;

- Projects in Schedule 3, undertaken exclusively or mainly for the development and testing of new methods or products and not used for more than two years.

## **EXPLANATORY NOTE**

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

These Regulations implement, for Northern Ireland, Council Directive 85/337/EEC (as amended by Council Directive 97/11/EC) in the assessment of the effects of certain public and private projects on the environment, in respect of certain harbour works.

Except for applications relating to harbour works made prior to 14th April 2003, these Regulations replace the Harbour Works (Assessment of Environmental Effects) (Northern Ireland) Regulations 1990 and amendments to them made by the Harbour Works (Assessment of Environmental Effects) (Amendment) Regulations (Northern Ireland) 1996.

The main changes made by Directive 97/11/EC, which these Regulations implement are increased coverage of the types of development requiring environmental impact assessment (EIA); a requirement for individual determinations; clarification of the way in which or whether EIA is required for every Annex II project exceeding the thresholds established by the Member States; a requirement to give advice on the content of the environmental statement if the developer so requests; a requirement to publicise the decision on the need for EIA and also the consent decision; a requirement to give reasons for decisions for granting or refusing consent; enhanced consultation arrangements with other Member States where projects are likely to have significant transboundary effects.

Regulation 3 provides that the Regulations apply only to harbour works below the low water mark of medium tides which are not subject to planning control or require a fish culture licence. There are separate Environmental Impact Assessment Regulations relating to planning matters and the grant of fish culture licences.

Regulation 4 provides for a developer who is minded to make an application relating to harbour works to be able to obtain a prior opinion on the information to be supplied in any environmental statements.

Regulation 5 applies where a prior opinion has been given under Regulation 4 to the effect that the Regulations apply to the proposed harbour works. Where the Department determines that the proposed works constitute a relevant project then an environmental statement in a form to be specified by the Department will be required.

Regulation 6 applies to applications relating to harbour works where no prior opinion has been given. In that event the Department will require to determine whether the proposed works constitute a relevant project which will require an environmental statement.

Regulation 7 provides for the public advertisement of an environmental statement required under Regulations 5 or 6. The public may make representations concerning the proposed harbour works.

Regulation 8 contains provisions for notifying and consulting with other EEA States in relation to projects likely to have environmental effects on those States and for giving them the opportunity to make representations in respect of such projects.

Regulation 9 applies where another EEA State has information regarding a proposed project in that EEA State which is likely to have significant effects on the environment in Northern Ireland. There are provisions regarding consultations between the EEA State and the opportunity for members of the public in Northern Ireland to submit representations to the competent authority in that EEA State.

Regulation 10 provides for consultation on and the holding of an Inquiry into proposed harbour works. Any party which has made representations regarding the proposed harbour works is to have the opportunity to appear before the Inquiry.

Regulation 11 prescribes the process which the Department should undertake when deciding whether to grant consent for proposed harbour works. It requires to take into account all of the information and representations provided in accordance with the Regulations.

Regulation 12 applies where harbour works are carried out without any consent required under the Regulations. The Department is empowered to require the developer to provide necessary information.

Regulation 13 requires proposals to change or extend any harbour works which are the subject of a consent under the Regulations to be the subject of an application to the Department for a variation of that consent.

Regulation 14 contains enforcement provisions where a developer carries out harbour works in respect of which consent has been refused or in contravention of a condition subject to which consent was granted. If the developer fails to comply with the terms of any Notice the works may be removed and the site re-instated. In that event the Department will be entitled to recover the expense of the removal or re-instatement.

Regulation 15 specifies penalties for breaches of the Regulations.

A regulatory impact assessment is not required as the changes introduced by these Regulations will not impose any additional costs or savings and will have a negligible impact on business.

Copies of Council Directive 85/337/EEC and 97/11/EC and other Directives referred to in the Regulations are available from the European Commission office in Northern Ireland, Windsor House, 9/15 Bedford Street, Belfast BT2 7EG.

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