

**2003 No. 445**

**PLANNING**

**Planning (General Development) (Amendment No. 2) Order  
(Northern Ireland) 2003**

*Made* - - - - - *9th October 2003*

*Coming into operation* *12th November 2003*

The Department of the Environment, in exercise of the powers conferred by Articles 13 and 83C of the Planning (Northern Ireland) Order 1991(a) and of all other powers enabling it in that behalf, hereby makes the following Order:

**Citation and commencement**

1. This Order may be cited as the Planning (General Development) (Amendment No. 2) Order (Northern Ireland) 2003 and shall come into operation on 12th November 2003.

**Amendment of the Planning (General Development) Order (Northern Ireland) 1993**

2.—(1) The Planning (General Development) Order (Northern Ireland) 1993(b) shall be amended in accordance with paragraphs (2) to (4).

(2) For Article 10 substitute the following: –

**“Certificate of lawfulness of existing use or development and certificate of lawfulness of proposed use or development**

10.—(1) An application to the Department for a certificate under Article 83A(1) or 83B(1) of the 1991 Order (certificates of lawfulness of existing or proposed use or development respectively) shall be made on a form issued by the Department and shall, in addition to specifying the land and describing the use, operations or other matter in question in accordance with those Articles, include the following information –

- (a) the paragraph of Article 83A(1) or, as the case may be, Article 83B(1), under which the application is made;
- (b) in the case of an application under Article 83A(1), the date on which the use, operations or other matter began or, in the case of operations carried out without planning permission, the date on which the operations were substantially completed;
- (c) in the case of an application under Article 83A(1)(a), the name of any use class specified in an order under Article 11(2)(e) of the 1991 Order (meaning of “development”) which the applicant considers applicable to the use existing at the date of the application;
- (d) in the case of an application under Article 83A(1)(c), sufficient details of the planning permission to enable it to be identified;

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(a) S.I. 1991/1220 (N.I. 11) as amended by S.I. 2003/430 (N.I. 8)

(b) S.R. 1993 No. 278

- (e) in the case of an application under Article 83B(1)(a), the use of the land at the date of the application (or, when the land is not in use at that date, the purpose for which it was last used) and the name of any use class specified in an order under Article 11(2)(e) of the 1991 Order which the applicant considers applicable to the proposed use;
  - (f) the applicant's reasons, if any, for regarding the use, operations or other matter described in the application as lawful; and
  - (g) such other information as the applicant considers to be relevant to the application.
- (2) An application to which paragraph (1) applies shall be accompanied by –
- (a) a plan sufficient to identify the land to which the application relates;
  - (b) such evidence verifying the information included in the application as the applicant can provide; and
  - (c) a statement setting out the applicant's estate in the land, the name and address of any other person known to the applicant to have an estate in the land and whether any such other person has been notified of the application.
- (3) Where such an application specifies two or more uses, operations or other matters, the plan which accompanies the application shall indicate to which part of the land each such use, operation or matter relates.
- (4) The Department may by notice in writing require the applicant to provide such further information as may be specified to enable it to deal with the application.
- (5) Where an application is refused, in whole or in part, (including a case in which the Department modifies the description of the use, operations or other matter in the application, or substitutes an alternative description for that description), the notice of decision shall state the Department's full reason for its decision and shall include a statement to the effect that if the applicant does not accept the Department's decision he may appeal to the Planning Appeals Commission under Article 83E of the 1991 Order.
- (6) A certificate under Article 83A or 83B of the 1991 Order shall be in a form set out in Schedule 3A.
- (7) Where the Department proposes to revoke a certificate issued under Article 83A or 83B of the 1991 Order in accordance with Article 83C(7) (certificates under Articles 83A and 83B: supplementary provisions), it shall, before it revokes the certificate, give notice of that proposal to –
- (a) the owner of the land affected;
  - (b) the occupier of the land affected;
  - (c) any other person who will in its opinion be affected by the revocation; and
  - (d) in the case of a certificate issued under Article 83E of the 1991 Order, the Planning Appeals Commission.
- (8) A notice issued under paragraph (6) shall invite the person on whom the notice is served to make representations on the proposal to the Department within 14 days of service of the notice and the Department shall not revoke the certificate until all such periods allowed for making representations have expired.
- (9) The Department shall give written notice of any revocation under Article 83C of the 1991 Order to every person on whom notice of the proposed revocation was served under paragraph (6).”.

(3) In Article 13, omit paragraph (b).

(4) After Schedule 3 insert the following: –

PLANNING (NORTHERN IRELAND) ORDER 1991: ARTICLES 83A AND 83B

PLANNING (GENERAL DEVELOPMENT) ORDER (NORTHERN IRELAND) 1993:  
ARTICLE 10

CERTIFICATE OF LAWFULNESS OF EXISTING USE OR  
DEVELOPMENT\*/CERTIFICATE OF LAWFULNESS OF PROPOSED USE OR  
DEVELOPMENT\*

The Department of the Environment hereby certifies that on *(insert date of application to the Department)*

the use\*/operations\*/matter\* described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged\*/hatched\*/coloured\* *(specify colour)*

on the plan attached to this certificate, was\*/were\*/would have been\* lawful within the meaning of Article 83A\*/83B\* of the Planning (Northern Ireland) Order 1991, for the following reason(s):

Signed

(Authorised officer)

Date

First Schedule

*(insert full description of use, operations or other matter, if necessary, by reference to details in the application or submitted plans, including a reference to the use class, if any, specified in an order under Article 11(2)(e) of the Planning (Northern Ireland) Order 1991, within which the certificated use falls.)*

Second Schedule

*(insert address or location of the site.)*

**Notes**

1. This certificate is issued solely for the purpose of Article 83A\*/83B\* of the Planning (Northern Ireland) Order 1991.

2. It certifies that the use\*/operations\*/matter\* specified in the First Schedule taking place on the land described in the Second Schedule was\*/were\*/would have been\* lawful, on the specified date and, thus, was not\*/were not\*/would not have been\* liable to enforcement action under Article 68 of the Planning (Northern Ireland) Order 1991 on that date.

3. This certificate applies only to the extent of the use\*/operations\*/matter\* described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use\*/operations\*/matter\* which is\*/are\* materially different from that\*/those\* described or which relate/s\* to other land may render the owner or occupier liable to enforcement action.

4. The effect of the certificate is also qualified by the proviso in Article 83B(4) of the Planning (Northern Ireland) Order 1991, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

\*delete where inappropriate.”.

Sealed with the Official Seal of the Department of the Environment on 9th October 2003.

(L.S.)

*Ian Maye*

A Senior Officer of the Department of the Environment

## EXPLANATORY NOTE

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

Article 2 of this Order substitutes a new Article 10 of the Planning (General Development) Order (Northern Ireland) 1993, and makes provision for procedures connected with applications for and the issue of certificates of lawfulness of existing use or development under Article 83A and certificates of lawfulness of proposed use or development under Article 83B of the Planning (Northern Ireland) Order 1991, (as inserted by Article 12 of the Planning (Amendment) (Northern Ireland) Order 2003). Article 12 is brought into operation by the Planning (Amendment) (2003 Order) (Commencement No. 2) Order (Northern Ireland) 2003 (S.R. 2003 No. 443 (c. 34)).

Article 41 of the Planning (Northern Ireland) Order 1991 (applications to determine whether planning permission required) is repealed by the bringing into operation of Article 37(2) of and Schedule 2 to the Planning (Amendment) (Northern Ireland) Order 2003.

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Published by The Stationery Office Limited

Printed in the UK by The  
Stationery Office Limited  
under the authority and  
superintendence of Carol  
Tullo, Controller of  
Her Majesty's Stationery  
Office being the Government  
Printer for Northern Ireland and  
the Officer appointed to print the  
Acts of the Northern Ireland Assembly  
Dd. N1211. C4. 10/03. Gp. 130. 14567.

ISBN 0-337-95250-7

