

**2007 No. 312**

**EUROPEAN COMMUNITIES**

**HARBOURS, DOCKS, ETC.**

**The Harbour Works (Environmental Impact Assessment)  
(Amendment) Regulations (Northern Ireland) 2007**

*Made* - - - - - *29th June 2007*

*Coming into operation* *6th August 2007*

The Department for Regional Development(a) and the Department of Agriculture and Rural Development(b), acting jointly, make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(c).

The Departments are Departments designated for the purposes of section 2(2) of the European Communities Act 1972(d) 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.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Harbour Works (Environmental Impact Assessment) (Amendment) Regulations (Northern Ireland) 2007 and shall come into operation on 6th August 2007.

(2) The Interpretation Act (Northern Ireland 1954(e)) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

**Amendment of the Harbour Works (Environmental Impact Assessment) Regulations (Northern Ireland) 2003**

2. The Harbour Works (Environmental Impact Assessment) Regulations (Northern Ireland) 2003(f) shall be amended in accordance with regulations 3 to 10.

3. In regulation 2(1) (interpretation)—

(a) after the definition of “Annex II” insert—

“any other information” means any other information relating to the environmental statement;

“any particular person” includes any non-governmental organisation promoting environmental protection;”;

---

(a) S.I. 1999/283 (N.I. 1) Article 3(1)  
(b) S.I. 1999/283 (N.I. 1) Article 3(4)  
(c) 1972 c. 68  
(d) S.I. 1988/785  
(e) 1954 c. 33 (N.I.)  
(f) S.R. 2003 No. 136

- (b) in the definition of “the Directive”, after “97/11/EC” insert, “ and further amended by Council Directive 2003/35/EC(a) in relation to public participation”; and
  - (c) after the definition of “harbour works” insert—
    - “by local advertisement”, in relation to a notice, means—
      - (a) publication of the notice in at least one newspaper in the locality of the harbour where the harbour works are proposed to be carried out; and
      - (b) where the appropriate Department maintains a website for the purpose of advertisement of applications, by publication of the notice on the website;”.
- 4.** In regulation 7 (publicity where an environmental statement is submitted)—
- (a) in paragraph (1)—
    - (i) for the words “in a local newspaper circulating in the locality of the harbour where the harbour works are proposed to be carried out” substitute “by local advertisement”;
    - (ii) in sub paragraph (b) delete the word “and” and after the words “approval was applied for” insert “and indicating the nature of the possible decisions to be made in relation to that application”;
    - (iii) in sub paragraph (e) after the words “ inspected, and the” insert, “times and the”; and
    - (iv) in sub paragraph (g) after the words “should do so in writing,” insert “ to the appropriate Department or at an email address nominated by the appropriate Department” , and omit the words “, to the appropriate Department”;
  - (b) after paragraph (4) insert the following paragraphs—
    - “(5) The appropriate Department shall inform any particular person whom it considers is or is likely to be affected by, or has an interest in, the proposed harbour works, by sending them a notice containing the information specified in paragraph (1) and the address of the relevant office of the appropriate Department.
    - (6) The appropriate Department shall make available to the public concerned any other information which is relevant to a case to which this regulation applies but which only becomes available after the publication of the advertisements under paragraph(1).”.
- 5.** In regulation 8 (transboundary cases and involvement of other EEA States)—
- (a) in paragraph 5(a) after the words “referred to in paragraphs (3) and (4)” insert “, any further information requested by the appropriate Department and any other information submitted by the applicant”; and
  - (b) in paragraph (7)(b) after the words “decision is based” insert, “including if relevant, information about the public participation process”.
- 6.** In regulation 9 (projects in another EEA state likely to have significant transboundary effects) after paragraph (2) insert—
- “(3) If another EEA State has taken a decision to grant or refuse consent and has informed the appropriate Department of that decision in accordance with Article 9(2) of the Directive, the appropriate Department must take such steps as they consider appropriate to bring to the attention of the public any information received from that EEA State in relation to that decision.” .
- 7.** In regulation 10 (consultation on and holding of inquiry into proposed harbour works)—
- (a) after paragraph (3) insert—
    - “(3A) The appropriate Department shall inform any particular person who it is aware is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of a local advertisement, by sending them a notice that contains those details set out in regulations 7(c) and (g).”; and
  - (b) for paragraph (5) substitute—

---

(a) O.J. No. L156 25.6.03

“(5) Schedule A1 to the Interpretation Act (Northern Ireland) 1954(a) applies in relation to an inquiry held under this regulation as it applies in relation to a local inquiry held under an enactment passed or made as mentioned in section 23 of that Act(b).”.

**8.** In regulation 11(4) (decisions on applications)—

(a) in sub-paragraph (b) for the words “publishing a notice in a local newspaper circulating in the locality of the harbour where the harbour works are proposed to be carried out” substitute “local advertisement”; and

(b) in sub-paragraph (c)—

(i) in head (ii) after the words “decision is based” insert “including information about the public participation process”;

(ii) in head (iii) omit “and”; and

(iii) after head (iv) omit “.” and insert—

“; and

(v) information regarding the right to challenge the validity of the decision and the procedure for doing so.”.

**9.** In Schedule 3 (description of development for the purposes of the definition of “Annex 1”) after paragraph 21 insert—

“**22.** Any change to or extension of projects listed in this Schedule where such a change or extension in itself meets the thresholds, if any, set out in this Schedule.”.

**10.** In Schedule 4 (description of development for the purposes of the definition of “Annex II”) in paragraph 13 after the words “Projects listed in Schedule 3” insert—

“(other than a change or extension falling within paragraph 22 of that Schedule)”.

Sealed with the Official Seal of the Department for Regional Development 29th June 2007.

(L.S.)

*B. R. D. White*

A senior officer of the Department for Regional Development.

Sealed with the Official Seal of the Department of Agriculture and Rural Development 29th June 2007.

(L.S.)

*L. McKibben*

A senior officer of the Department of Agriculture and Rural Development

---

(a) Schedule A1 was inserted by section 47 (2) of, and Schedule 1 to the Inquiries Act 2005 (c. 12)  
(b) Section 23 was substituted by section 47(1) of the Inquiries Act 2005

## EXPLANATORY NOTE

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

The Regulations amend the Harbour Works (Environmental Impact Assessment) Regulations (Northern Ireland) 2003 (“the 2003 Regulations”) in order to implement Article 3 of Directive 2003/35/EC, (O.J. L156 25.6.2003), of the European Parliament and of the Council in so far as that Directive provides for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice. That Article amends Council Directives 85/337/EEC, (O.J. L175 5.7.1985), as amended by 97/11/EC, O.J. L73 14.3.1997.

Regulation 3 amends regulation 2 of the 2003 Regulations, the definitions section, by adding definitions for “any other information”, “any particular person”, and “by local advertisement”.

Regulation 4 amends regulation 7 of the 2003 Regulations and inserts a provision requiring the Department to notify persons likely to be affected by, or having an interest in, the application.

Regulations 5 and 6 amends regulations 8 and 9 of the 2003 Regulations to extend the public information requirements in respect of projects located within Northern Ireland that are likely to have significant effects on the environment of another Member State and for projects in another Member State that are likely to affect Northern Ireland.

Regulation 7 amends regulation 10 of the 2003 Regulations and inserts a provision requiring the, appropriate Department to notify persons likely to be affected by, or having an interest in, the application.

Regulation 8 amends regulation 11 of the 2003 Regulations in relation to publicity arrangements for environmental statements, information about the public participation process and challenging decisions.

Regulations 9 and 10 amend Schedules 3 and 4 of the 2003 Regulations by inserting a new category of project. This new category of project is a change to or extension of a project where the change or extension itself meets the Schedule 3 thresholds for that type of project.

Copies of Council Directives 85/337/EEC, 97/11/EC and 2003/35/EC are available from the European Commission office in Northern Ireland, Windsor House, 9/15 Bedford Street, Belfast BT2 7EG.

© Crown Copyright 2007

Published and 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. N3241. C2. 7/07. Gp. 130. 14567.

£3.00