

EXPLANATORY MEMORANDUM TO
THE CERTIFICATES OF ALTERNATIVE DEVELOPMENT VALUE
REGULATIONS (NORTHERN IRELAND) 2015

S.R. 2015 No. 174

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly
- 1.2 The Statutory Rule is made under Article 17 of the Land Compensation (Northern Ireland) Order 1982 (the 1982 Order) and is subject to negative resolution procedure before the Assembly.

2. Purpose

- 2.1 The Regulations provide for the application for and issue of certificates of alternative development value under Article 15 of the 1982 Order. A certificate of alternative development value is issued to assist in establishing a value for land that is being acquired by an authority possessing powers compulsory acquisition,

3. Background

- 3.1 The Regulations are technical in nature and simply transfer to councils the provisions currently contained in the Certificates of Alternative Development Value Regulations (Northern Ireland) 1987 which require the submission of such applications to the Department. This takes account of the transfer of most planning functions to councils in April 2015.

4. Consultation

- 4.1 The Department consulted on its “Planning Reform & Transfer to Local Government Proposals for Subordinate Legislation Phase 2” between October and December 2014. In the consultation document the Department indicated that it will also take forward a range of technical Statutory Rules which are needed to take account of the new two-tier planning model. These SRs will all be subject to the full scrutiny of the Assembly as part of the legislative process but as they do not involve new policies or significant changes to existing policies they are not being made subject to public consultation. The Certificates of Alternative Development Value Regulations (Northern Ireland) 2015 was one of those Statutory Rules.

5. Equality Impact Assessment

- 5.1 In accordance with its duty under Section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on the legislative proposals and has concluded that they do not have implications for equality of opportunity. The measures will not affect any group disproportionately.

6. Regulatory Impact

- 6.1 A Regulatory Impact Assessment carried out in respect of the Regulations indicated that the proposals would not impose any significant costs to business or the voluntary sector.

7. Financial Implications

- 7.1 The financial implications of the move to the new two-tier planning system have been addressed in the financial package being transferred to the new councils.

8. Section 24 of the Northern Ireland Act 1998

- 8.1 The Department considers that the proposed Regulations are compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1 There are no EU implications.

10. Parity or Replicatory Measure

- 10.1 Equivalent Regulation exist in England, Scotland and Wales.

11. Additional Information

- 11.1 Not applicable.

REGULATORY IMPACT ASSESSMENT

Certificates of Alternative Development Value

1. Title of Proposal

The Certificates of Alternative Development Value Regulations (Northern Ireland) 2015

2. Purpose and intended effect of measure

i) The objective:

The main objective of the Statutory Rule is to provide a framework for councils to process requests for certificates of alternative development value under the Land Compensation (Northern Ireland) Order 1982. The Regulations provide that such applications shall be in writing and must include a plan or map sufficient to identify the land to which the application relates. The Regulations also provide an appeals mechanism in circumstances where the council issues a certificate otherwise than for the class or classes of development specified in the application made to it, or contrary to representations in writing made to it by a party directly concerned with the application.

The proposed Regulations will only affect Northern Ireland.

ii) The background:

The new draft Regulations are required as a direct consequence of the introduction of the two tiered planning system introduced in the Planning Act (Northern Ireland) 2011 which comes into operation in April 2015 with the transfer of most planning functions to councils.

iii) Risk Assessment and Rationale for Government Intervention:

Failure to provide for councils to process requests for certificates of alternative development value would result in the function remaining with the Department under the current 1987 Regulations, which would run contrary to the Department's policy of transferring most planning functions to councils in April 2015.

3. Options Appraisal

Option 1 – Do Nothing

The current provisions in the Certificates of Alternative Value Regulations (Northern Ireland) 1987 continue to apply. This is not considered an appropriate option as it fails to achieve the Department's objective of reforming the planning process by transferring most planning functions to local government.

Option 2 - Introduce new Regulations

Article 15 of the Land Compensation (Northern Ireland) Order 1982 (as amended by the Planning Act (Northern Ireland) 2011) provides that where an interest in land is proposed to be acquired by an authority possessing compulsory acquisition powers and that land or part of it is in a proposed redevelopment area or in the area of a proposed development scheme or does not consist or form part of an area: -

(a) which that authority proposes to develop for residential, commercial, or industrial use or for a range of two or more uses any of which is residential, commercial or industrial; or

(b) indicated in the development plan for a use which is primarily residential, commercial or industrial or for a range of two or more uses any of which is residential, commercial or industrial; then,

either of the parties directly concerned may apply to the council within whose district the land is situated for a certificate under that Article. Article 16 of the 1982 Order provides for the circumstances in which appeals against a council's decision can be made to the Planning Appeals Commission.

4. Costs and Benefits

There are unlikely to be any compliance costs over and above those which already apply in respect of the Certificates of Alternative Development Value Regulations (Northern Ireland) 1987.

Option 1: Do Nothing

There are no additional economic benefits or costs. Doing nothing is not considered an appropriate option as there needs to be a level of control exercised over applications for certificates of alternative development value.

Option 2: Introduce new Regulations

An application process, set out in Regulations, is required to safeguard the interests of landowners whose land is being acquired by statutory bodies using compulsory acquisition powers.

5. Sectors and Groups Affected

The main sectors and groups affected are the district council and those landowners whose land is being acquired by a statutory body under compulsory acquisition powers.

6. Enforcement and Sanctions

A right of appeal to the Planning Appeals Commission against the council's decision is provided for in the Regulations.

7. Consideration of Impacts

Equality Impact Assessment

An Equality Impact Assessment screening carried out in respect of this proposal found no evidence of any additional impact on any of the Section 75 categories.

Health Impact

No impact on health has been identified associated with compliance with the Regulations.

Small Firms Impact Test

The proposed Regulations are unlikely to apply to small firms.

Human Rights Assessment

The Department considers that the proposed Regulations are fully compliant with the Human Rights Act 1998.

Rural Impact Assessment

There will be no significant differential impact of the Regulations between urban and rural areas.

8. Monitoring and Review

The introduction of the new two tiered planning regime will require to be monitored to determine whether the aims of introducing the new Regulations are met. The overarching aim has been to safeguard the rights of landowners whose land is being acquired under by statutory bodies under compulsory acquisition powers. The new Regulations will be the subject of a future review, when the new Regulations have had an opportunity to bed down following transfer of planning powers to district councils in 2015.

9. Consultation

The Department considers that as the legislative amendments are technical in nature, no express consultation on them is required. The Regulations are, however, referred to in the Planning Reform and Transfer to Local Government Phase 2 Public Consultation document that issue on 31 October 2014.

10. Summary and Recommendations

Option 2 is the recommended option as it will provide an opportunity for councils to process applications for certificates of alternative development value by landowners whose land is being acquired by statutory bodies under compulsory acquisition powers.

Declaration:

I have read the Regulatory Impact Assessment and I am satisfied that the balance between cost and benefit is the right one in the circumstances.

Signed by a senior officer of the Department of the Environment.

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Date: 23rd March 2015

A handwritten signature in black ink, appearing to read 'Angus Kerr', with a stylized flourish at the end.

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