
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 61

**The Planning (Hazardous Substances)
Regulations (Northern Ireland) 2015**

PART 3

Consent

Application for hazardous substances consent

- 5.—(1) Subject to paragraph (2), an application for consent shall—
- (a) be made to the council on Form 1;
 - (b) subject to paragraphs (4) and (5) include the information required by the form, a site map and a substance location plan; and
 - (c) be accompanied by 3 additional copies of the form, the map, plan and certificates required by regulation 7.
- (2) An application to which section 111 (grant of hazardous substances consent without compliance with conditions previously attached) applies shall—
- (a) be made to the council or, as the case may be, the Department, on Form 2;
 - (b) subject to paragraphs (8) and (9) include the information required by the form, a change of location plan, if required by paragraph (6), and particulars of the consent; and
 - (c) be accompanied by 3 additional copies of the form, the consent, any plan submitted with it and certificates required by regulation 7.
- (3) An application under section 116(2) (effect of hazardous substances consent and change of control of land) shall—
- (a) be made to the council on Form 2;
 - (b) subject to paragraphs (7) to (9) include the information required by the form, a change of control plan, and particulars of the consent; and
 - (c) be accompanied by 3 additional copies of the form, the relevant consent, the change of control plan and certificates required by regulation 7.
- (4) The site map required by paragraph (1)(b) shall be a map, reproduced from, or based upon, an ordnance map with a scale of not less than 1 to 2,500, which identifies the land to which the application relates and shows grid lines and ordnance map reference numbers.
- (5) The substance location plan required by paragraph (1)(b) shall be a plan of the land to which the application relates, drawn to scale of not less than 1 to 1,250, which identifies—
- (a) any area of the site intended to be used for the storage of the substance;
 - (b) where the substance is to be used in a manufacturing, treatment or other industrial process, the location of the major items of plant involved in that process in which the substance will be present;

(c) access points to and from the land.

(6) A change of location plan shall be required in the case of an application to which section 111 applies which relates to a condition restricting the location of a hazardous substance, and shall be a plan of the land to which the application relates, drawn to a scale of not less than 1 to 1,250, which identifies the location of the hazardous substance at the date of the application and the proposed location requiring the application.

(7) The change of control plan required by paragraph (3) shall be a plan of the land to which the application relates, drawn to a scale of not less than 1 to 1,250, which identifies each area of the site under separate control after the proposed change of control.

(8) The consent referred to in paragraphs (2)(b) and (3)(b) is the existing hazardous substances consent which applies to the hazardous substance to which the application applies; and the particulars of the consent to be supplied shall be a copy of the consent granted on an application under the 2011 Act.

(9) Where an application referred to in paragraphs (2) or (3) relates to more than one consent, particulars of each consent shall be included in the application.

(10) Regulations 6 to 13 shall apply to applications made under sections 111 and 116(2) as they apply to applications for consent.

Advertisement of notices of applications

6.—(1) Where an application for consent is made to the council, the council shall publish notice of the application in at least one newspaper circulating in the locality in which the land to which the application relates is situated and, where the council maintains a website for the purpose of advertisement, by publication of the notice on the website.

(2) A notice under paragraph (1) shall state—

- (a) the name of the applicant;
- (b) brief details of the consent being sought;
- (c) the address or location of the application site; and
- (d) the place and times at which and the period during which copies of the application may be inspected by the public.

Certificates to accompany applications

7. An application for consent or an appeal against the refusal of such an application or against the imposition of a condition on such a consent shall not be entertained by the council or, as the case may be the planning appeals commission, unless it is accompanied by whichever of the certificates A to D set out in Form 3 is appropriate, signed by or on behalf of the applicant.

Council to take account of representations from certain persons

8. Where an application for consent is accompanied by a certificate C or D as mentioned in regulation 7, the council, in determining the application, shall take into account any representations relating thereto which are made to it by any person who satisfies it that, in relation to any of the land to which the application relates, he or she is such a person as is described in paragraphs (a) to (c) of Certificate C.

Persons to be treated as in actual possession of land

9. For the purposes of any provision of these Regulations a person shall be treated as in actual possession of land if that person is entitled to one of the following estates in land namely—

- (a) a legal or equitable fee simple absolute, a legal or equitable fee tail or a legal or equitable life estate; or
- (b) a tenancy of which not less than 40 years remains unexpired.

Consultations before determining applications for hazardous substances consent

10. Before determining an application for consent the council shall consult with—

- (a) the Department: and
- (b) the Health and Safety Executive for Northern Ireland.
- (c) the Northern Ireland Fire and Rescue Service.

Determination of applications for hazardous substances consent

11. The council shall not determine an application for hazardous substances consent—

- (a) where the application is accompanied by certificate C or D as mentioned in regulation 7, before the end of the period of 14 days from the date appearing from the certificate to be the latest of the dates of service of notices as mentioned in the certificate; and
- (b) before the end of a period of 28 days from the date on which all consultees have been served with a copy of the application.

Notification of decision

12.—(1) Subject to paragraph (3), for the purposes of section 115(7) (appeals) the prescribed period by which the council must give notice to the applicant of its decision on the application or give notice that the application has been referred to the Department under section 114 (call in of certain applications for hazardous substances consent to Department) is 8 weeks from the date when the application is received by the council.

(2) The council or, as the case may be, the Department shall, as soon as is practicable, give notice of its decision on the application to every person who made representations which it was required to take into account under regulation 8.

(3) Where a section 235 (national security) certificate is issued the prescribed period is 8 weeks from the date on which that notice is issued to the council or, as the case may be, the Department.

(4) In this regulation a “section 235 certificate” means a certificate issued by the Secretary of State under section 235(1) or by the Department of Justice under section 235(4).

Applications to the Department for consent to execute works without compliance with conditions previously attached

13.—(1) Where an application under section 111 is required to be made to the Department then for the purpose of considering representations made in respect of that application the Department may cause a public local inquiry to be held by—

- (a) the planning appeals commission; or
- (b) a person appointed by the Department for the purpose.

(2) Where a public local inquiry is not held under paragraph (3), the Department must, before determining the application, serve a notice on the applicant and the appropriate council indicating the decision which it proposes to make on the application; and if within such period as may be specified in that behalf in the notice (not being less than 28 days from the date of service of the notice), the applicant or the council so requests in writing, the Department shall afford to each of them an opportunity of appearing before and being heard by—

- (a) the planning appeals commission; or
- (b) a person appointed by the Department for the purpose.

(3) In determining an application under section 111 the Department must, where any inquiry or hearing is held, take into account any report of the planning appeals commission or a person appointed by the Department for the purposes of the inquiry or hearing, as the case may be.

(4) The decision of the Department on an application under section 111 shall be final.

Call in of certain applications for hazardous substances consent to the Department

14.—(1) On referring any application for hazardous substances consent to the Department pursuant to a direction under section 114 (call in of certain applications for hazardous substances consent to the Department), a council must serve on the applicant a notice—

- (a) informing the applicant that the application has been referred to the Department; and
- (b) setting out the reasons given by the Department for issuing the direction.

Application of the 2011 Act to councils

15.—(1) Any application by a council for hazardous substances consent shall be made to the Department.

(2) Regulations 5 to 7 shall apply to the making of such applications as they apply to applications made to a council.

(3) Section 110 (determination of applications for hazardous substances consent), (other than subsection (2)(e)) shall apply in relation to an application made to the Department by a council as it applies in relation to an application made to a council.

(4) A decision of the Department on an application made to it by a council shall be treated as a decision under section 114.