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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 74**

**The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015**

**PART 2**

**Pre-Application Procedures**

**Pre-application determination as to need for environmental impact assessment and opinion as to content of environmental statement**

7.—(1) Subject to paragraphs (2) to (4), before applying for planning permission or subsequent consent a developer may apply in writing to the council or, as the case may be, the Department asking it to give—

- (a) a determination as to whether a proposed development would or would not be an EIA development;
- (b) an opinion as to the information to be provided in the environmental statement to be submitted with an EIA application.

(2) A request under paragraph 1(b) may be made at the same time as a request under paragraph 1(a).

(3) A request under paragraph 1(a) or 1(b) in respect of planning permission shall be accompanied by—

- (a) a plan sufficient to identify the land;
- (b) a brief description of the nature and purpose of the development and of its possible effects on the environment; and
- (c) such other information or representations as the applicant may wish to provide or make.

(4) A request under paragraph (1)(a) or (1)(b) in respect of subsequent consent shall be accompanied by—

- (a) a plan sufficient to identify the land;
- (b) sufficient information to enable the council or, as the case may be, the Department to identify any planning permission granted for the development in respect of which a subsequent application has been made;
- (c) an explanation of the likely effects on the environment which were not identified at the time that the planning permission was granted; and
- (d) such other information or representations as the applicant may wish to provide or make.

(5) Subject to paragraph (6), the council or, as the case may be, the Department shall inform the applicant, in writing, of its determination under paragraph (1)(a) within 4 weeks from the date of receipt of the application, or within such extended period as may be agreed in writing between the council or, as the case may be, the Department and the applicant. The Department shall send a copy of its determination to the council.

(6) Where the council or, as the case may be, the Department considers that it has not been provided with sufficient information to enable it to respond to a request under paragraph (1)(a) or (b) it shall notify the developer of the particular points on which further information is required, and the period for making the determination or for giving opinion on the content of the environmental statement shall not commence until receipt of that additional information.

(7) Subject to paragraph (10), the council or, as the case may be, the Department shall not give an opinion in response to a request under paragraph (1)(b) until it has consulted the developer, and such other authorities likely to be concerned by the proposed development by reason of their specific environmental responsibilities, but shall respond to such a request within 6 weeks of receipt of that request or such longer period as may be agreed in writing with the applicant. The Department shall send a copy of its opinion to the council.

(8) If, in response to a request under paragraph (1)(a), the council or, as the case may be, the Department, having taken into account the selection criteria, is of an opinion that an application would be an EIA application, it shall provide with the determination a written statement giving clearly and precisely the full reasons for its conclusion.

(9) If, in response to a request under paragraph (1)(a), the council or, as the case may be, the Department, having taken into account the selection criteria, is of the opinion that an application would not be an EIA application, it shall, if requested to do so, make available the reasons for that conclusion.

(10) Where the council or, as the case may be, the Department gives a determination under paragraph (8) and the applicant has also requested an opinion under paragraph (1)(b), the council or, as the case may be, the Department shall respond to the request for the opinion within 6 weeks of the date of issue of its determination under paragraph (8) or such longer period as may be agreed in writing with the applicant.

(11) In giving an opinion in response to a request under paragraph (1)(b), the council or, as the case may be, the Department shall take into account—

- (a) the specific characteristics of the particular development;
- (b) the specific characteristics of development of the type concerned; and
- (c) the environmental features likely to be affected by the development.

(12) Where, following receipt of an opinion under paragraph (10), an applicant wishes to proceed with the submission of an environmental statement, the applicant shall by notice in writing inform the council or, as the case may be, the Department to such effect within 4 weeks of the date of the opinion.

(13) Where the applicant wishes to proceed with the proposed development the applicant shall by notice in writing inform the council or, as the case may be, the Department that the applicant either—

- (a) accepts the council's or, as the case may be, the Department's determination under paragraph (8) and proposes to provide an environmental statement; or
- (b) does not accept the council's or, as the case may be, the Department's determination and proposes to seek a hearing before the Commission.

(14) The notice referred to in paragraph (13) shall be served on the council or, as the case may be, the Department within 4 weeks of the date of the determination.

(15) Where the council or, as the case may be, the Department has given an opinion under paragraph (1)(b) or where it has received a statement under regulation 5(2)(a) it shall not be precluded from requiring further information in connection with any environmental statement that may be submitted.