

SCHEDULE 5

Saving and transitional provisions

PART 2

The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 as modified

Application made to the council or the Department without prior determination as to need for environmental impact assessment or without an environmental statement

9.—(1) Where it appears to the council or, as the case may be, the Department that an application for planning permission or a subsequent application—

- (a) is a Schedule 1 application or a Schedule 2 application;
- (b) has not been the subject of a determination as to whether the application is or is not an EIA application; or in the case of a subsequent application has been the subject of a determination before planning permission was granted to the effect that it is not EIA development; and
- (c) is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these regulations,

it shall make a determination as to whether the application is for EIA development, taking into account the selection criteria.

(2) If the council or, as the case may be, the Department considers that it has not been provided with sufficient information to make a determination, it shall notify the applicant of the particular points on which it requires further information.

(3) Where an EIA application, including an application determined as such under paragraph (1), is not accompanied by an environmental statement or a statement referred to by the applicant as an environmental statement, the council or, as the case may be, the Department shall notify the applicant in writing that the submission of such a statement is required, giving clearly and precisely the full reasons for its view.

(4) Subject to paragraph (5), the council or, as the case may be, the Department shall make a determination under paragraph (1) and, where necessary, notify the applicant in accordance with paragraph (3) within 4 weeks from the date of receipt of the application or such longer period as may be agreed in writing with the applicant.

(5) Where additional information is requested under paragraph (2), the council or, as the case may be, the Department shall notify the applicant of its determination within a period of 4 weeks from the date of receipt of the additional information.

(6) An applicant receiving a notification pursuant to paragraph (3) shall, within 4 weeks from the date of the determination, inform the council or, as the case may be, the Department, in writing, that he—

- (a) accepts the council's or, as the case may be, the Department's determination 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.

(7) If the applicant does not inform the council or, as the case may be, the Department in writing in accordance with paragraph (6), the permission or subsequent consent sought shall be deemed to be refused at the end of the relevant 4 week period; and the deemed refusal shall not give rise to

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an appeal to the Commission by virtue of Article 32 (appeals) or Article 33 (appeal in default of planning decision).

“(7A) Where, following receipt of a notification pursuant to paragraph (3), an applicant proposes to seek a hearing before the Commission, he shall by notice in writing inform the Commission to such effect within 4 weeks from the date of the notification.”

(8) Where the council or, as the case may be, the Department determines, or following a hearing by the Commission confirms, that an environmental statement is required, the statement shall be submitted within 6 months from the date of determination or such extended period as may be agreed in writing between the applicant and the council or, as the case may be, the Department, and if not so submitted, the application for planning permission or subsequent application shall be deemed to be refused and the deemed refusal shall not give rise to an appeal to the Commission by virtue of Article 32 (appeals) or Article 33 (appeal in default of planning decision).

(9) Where, following a hearing by the Commission, the council or, as the case may be, the Department withdraws its determination that an environmental statement is required, the period within which the application for planning permission or subsequent application is to be determined shall be calculated from the date of notice to the applicant of the council’s or, as the case may be, the Department’s withdrawal.

(10) Where the council or, as the case may be, the Department makes a determination under paragraph (1) that an environmental statement is required or confirms a determination under paragraph (8), regulations 7(3) and 8 shall apply.