STATUTORY RULES OF NORTHERN IRELAND

2017 No. 198

AGRICULTURE, NORTHERN IRELAND

The Environmental Impact Assessment (Agriculture) (Amendment No. 2) Regulations (Northern Ireland) 2017

Made - - - -	*20th September 2017*
Coming into operation	*25th September 2017*

The Department of Agriculture, Environment and Rural Affairs(**1**), being a Department designated(**2**) for the purposes of section 2(2) in relation to the common agricultural policy of the European Communities and matters relating to the promotion of rural development, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**3**), makes the following Regulations:

Citation and Commencement

1.—(1) These Regulations may be cited as the Environmental Impact Assessment (Agriculture) (Amendment No. 2) Regulations (Northern Ireland) 2017 and come into operation on 25th September 2017.

(2) The Interpretation Act (Northern Ireland) 1954(**4**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment to the Environmental Impact Assessment (Agriculture) Regulations (Northern Ireland) 2007

2. The Environmental Impact Assessment (Agriculture) Regulations (Northern Ireland) 2007(**5**) shall be amended as provided by regulations 3 to 18.

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

(a) for the definition "Area of Special Scientific Interest" substitute "means and area so declared by Article 28 of the Environment (Northern Ireland) Order 2002(**6**);"

(**1**) S.I. 2000 No 2812 and S.I. 2000 No 3238
(**2**) S.I. 2000/2812 and S.I. 2000/3238
(**3**) 1972 c. 68
(**4**) 1954 c. 33 (N.I.)
(**5**) S.R. 2007 No.421 as amended by S.R. 2008 No.278
(**6**) 2002 No. 3153 (N.I. 7) as commenced by art 2

(b) for the definition "the Department" substitute "means the Department of Agriculture, Environment and Rural Affairs;"

(c) for the definition "EIA Directive" substitute "means Directive 2011/92/EU(**7**) of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment as amended by Council Directive 2014/52/EU(**8**) of the European Parliament and of the Council;"

(d) for the definition "Environmental Statement" substitute—

"means an environmental impact assessment report, which should be prepared by a competent expert and—

(a) include at least the information referred to in Part 1 of Schedule 3;

(b) is based on any scoping opinion given under regulation 10 in respect of the significant project;

(c) any additional information which , taking into account current knowledge and methods of assessment, may reasonably required for reaching a reasoned conclusion on the significant effects of the project on the environment;

(d) takes into account the results of any relevant UK environmental assessments which are reasonably available to the applicant, and

(e) states the relevant expertise and qualifications of the competent person."

(e) for the definition "European site" substitute "means a site mentioned in regulation 9 of the Habitat Regulations.

(f) in the definition of "the Habitat Directive" for the words from "the Act concerning" to the end substitute "as last amended by Council Directive 2013/17/EU(**9**);";

(g) in the definition of "the Habitat Regulations" for "&c" substitute "etc";

(h) in the definition of "sensitive area" after "1985" insert "(**10**)"

(i) insert at the appropriate places—

""the Birds Directive" means Directive 2009/147/EC(**11**) of the European Parliament of the Council of 30 November 2009 on the conservation of wilds birds as last amended by Council Directive 2013/17/EU;"

""EU environmental assessment" means an assessment carried out—

(a) under an obligation to which section 2(1) of the European Communities Act 1972 applies (other than the EIA Directive), or

(b) under the law of any part of the United Kingdom implementing an EU obligation other than an obligation arising under the EIA Directive, of the effect of anything on the environment;"

""UK environmental assessments" means an assessment carried out in accordance with an obligation under the law of any part of the United Kingdom of the effect of anything on the environment;"

4.—(1) In regulation 3 (Extent of regulations)—

(**7**) OJ L 26, 28.01.2012, p.1
(**8**) OJ L 124, 25.4.2014, p.1
(**9**) OJ L 158, 10.6.2013, p.1 193
(**10**) 1985 No. 170 (N.I. 1) as amended by 1989 No. 93 (N.I. 3)
(**11**) OJ L 20, 26.01.2010, p.7

(a) In paragraph (2)(a) substitute "Planning (Northern Ireland) (Environmental Impact Assessment) Regulations 1999(b)" with "Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017(**12**)";

(b) In paragraph (2)(b) substitute "Article 2(3)" with "Article 2(4)";

(c) In paragraph (2)(c) substitute "the Environmental Impact Assessment (Land Drainage Improvement Works) Regulations (Northern Ireland) 2006(c);" with "The Drainage (Environmental Impact Assessment) Regulations (Northern Ireland) 2017(**13**);"

(d) In paragraph (2)(d) substitute "Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2000(d);" with "Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006(**14**);"

(e) In paragraph (2)(e) substitute "the Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2005(e);" with "The Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2017(**15**);"

(f) In paragraph (3) substitute "paragraph (2)" with "paragraph (2)(b)", and

(g) In paragraph (4) substitute "paragraph (2)," with "paragraph (2)(b),".

5. In regulation 7 (Application for a screening decision) for paragraph (1) substitute—

"**7.**—(1) An application for a screening decision must be made to the Department and contain the information as specified in Schedule 2A."

6.—(1) In regulation 8 (The screening decision) after paragraph (1) insert—

"(1A) The Department must take into account the results of any EU environmental assessments which are reasonably available to it."

(2) For paragraph (4)(a) substitute—

"(a) notify the applicant of—

(i) the decision and the main reasons for it with reference to the criteria in Schedule 2;

(ii) where the decision is that the project is not likely to have significant effects on the environment, a description of any measures disclosed by the applicant under Schedule 2A(4)."

(3) In paragraph (4)(b) for "the decision" substitute "the information referred to in sub-paragraph (a)".

(4) In paragraph (4)(c) for "notify those bodies of it" substitute "notify those bodies of the information referred to in sub-paragraph (a)".

(5) For paragraph (5) substitute—

"(5) The Department must make, and notify the applicant of, a screening decision before the end of the period of 35 days beginning with—

(a) the date referred to in regulation 7(3), or

(b) where applicable, the date the Department receives any additional information it has requested under regulation 7(2).

(5A) The Department may, where it considers there are exceptional circumstances (including relating to the nature, complexity, location or size of the project), extend the period mentioned in paragraph (5) by informing in writing the applicant of—

(**12**) S.R. 2017 No.83
(**13**) S.R. 2017 No.88
(**14**) S.R. 2006 No.518 as amended by S.R. 2017 No.86
(**15**) S.R. 2017 No.85

(a) the new period within which it will make the screening decision, and

(b) the reasons for the extension.".

7. Insert after Regulation 9—

"**Environmental Impact Assessment**

9A.—(1) An environmental impact assessment is a process consisting of—

(a) the preparation of an environmental statement by the developer as laid out in Schedule 3 Part 1;

(b) the carrying out of consultation, publication and notification as required by this Part of the regulations;

(c) the examination by the Department of the information presented in the environmental statement and any supplementary information provided, where necessary, by the developer in accordance with Schedule 3 Part 2, and any relevant information received through the consultations in regulation 11;

(d) the reasoned conclusion by the Department on the significant effects of the project on the environment, taking into account the results of the examination referred to in sub-paragraph (c) and where appropriate, its own supplementary examination; and

(e) the integration of the Department's reasoned conclusion into the decision notice in accordance with regulation 16.

(2) The environmental impact assessment must identify, describe and assess in an appropriate manner, in light of the circumstances relating to the proposed development, the direct and indirect effects of the proposed development on the factors specified in paragraph (3) and the interaction between those factors.

(3) The factors are—

(a) population and human health;

(b) biodiversity, and in particular species and habitats protected under the Habitats Directive and the Birds Directive;

(c) land, soil, water, air and climate;

(d) material assets, cultural heritage and the landscape.

(4) The effects to be identified, described and assessed under paragraph (2) include the expected effects deriving from the vulnerability of the project to risks, so far as relevant to the project, of major accidents and/or disasters.

(5) An environmental impact assessment to be carried out in relation to a determination of an application for consent under these Regulations must identify the likely significant effects of the proposed project on the environment before a decision to grant consent for that project is made.

(6) The Department must ensure that they have, or have access as necessary to, sufficient expertise to examine the environmental statement."

8.—(1) In regulation 10(1) (Scoping opinions) for "what information" substitute "the scope and level of detail of information which";

(2) After paragraph (1) insert—

"(1A) The request must include the screening decision and all relevant documentation provided under regulation 7 along with any other information or representation the applicant wishes to provide or make."

9. In regulations 11(2)(b); 12(4)(b); and 13(2)(b) substitute "28 days" with "30 days".

10. After regulation 15 insert—

"**Conclusion about the environmental impact**

15A.—(1) The Department must consider (ensuring that in doing so it has, or has access to, any expertise it considers necessary)—

(a) the environmental statement;

(b) any additional environmental information;

(c) any representations it receives under—

(i) regulation 12(4)(b) and 12(5)(c),

(ii) regulation 13(2)(b) and 13(3)(d), and

(iii) regulation 14(5)(b), and

(d) any features of the significant project or measures to avoid, prevent, reduce or offset any likely significant adverse effects of the significant project on the environment.

(2) Following that consideration, the Department must reach a conclusion about the likely significant effects of the significant project on the factors specified in regulation 9A(3)."

11. For regulation 16 (the consent decision) substitute—

"**The consent decision**

16.—(1) The Department must consider—

(a) the conclusion reached under regulation 15A(2) in respect of the significant project and the reasons for that conclusion;

(b) whether it is appropriate to require the applicant to monitor the significant adverse effects of the significant project on the environment, and if so—

(i) whether consent should be given subject to conditions to ensure that the applicant is under such a duty, and

(ii) whether consent should be given subject to conditions to require remedial action to be taken in circumstance described in the conditions;

(c) whether, having regard to the likely significant environmental effects of the significant project, consent should be given subject to any other conditions;

(d) any social or economic impacts which might result from a decision to refuse consent for the significant project.

(2) Following that consideration, the Department must grant, or refuse to grant, consent for a significant project.

(3) The Department may make a decision under paragraph (2) only if satisfied that the conclusion reached under regulation 15A(2) in respect of the significant project and the reasons for it address the likely significant environmental effects of the significant project.

(4) The Department must not make a decision under paragraph (2) before—

(a) the expiry of the period in the notice under regulation 12(5)(c),

(b) the expiry of the period of 30 days after—