STATUTORY RULES OF NORTHERN IRELAND

2017 No. 86

FORESTRY

The Environmental Impact Assessment (Forestry) (Amendment) Regulations (Northern Ireland) 2017

Made - - - -	*15th May 2017*
Coming into operation	*16th May 2017*

The Department of Agriculture, Environment and Rural Affairs(**1**) being a Department designated for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to measures relating to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment, in exercise of the powers conferred on it by the said section 2(2) makes the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Environmental Impact Assessment (Forestry) (Amendment) Regulations (Northern Ireland) 2017 and come into operation on 16th May 2017.

Interpretation

2. The Interpretation Act (Northern Ireland) 1954 shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly(**3**)

Amendment of the Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006

3. The Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006(**4**) are amended in accordance with regulations 4 to 23.

(**1**) The Ministry of Agriculture became known as the Department of Agriculture by virtue of section 7(5) of the Northern Ireland Constitution Act (c.36), was renamed the Department of Agriculture and Rural Development by Article 3(4) of the Departments (Northern Ireland) Order 1999 (S.I. 1999/283 (N.I.1) and was renamed the Department of Agriculture, Environment and Rural Affairs by section 1 of the Departments Act (Northern Ireland) 2016 (c.5).

(**2**) 1972 c.62. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7).

(**3**) 1954 c. 33 (N.I.)

(**4**) S.R. 2006 No. 518

Regulation 2 (interpretation)

4. In regulation 2(1)—

(a) for the definition of "consultation bodies" substitute—

""consultation bodies" in relation to any project means—

any public body, statutory authority or organisation which exercises statutory functions or is otherwise designated by any statutory provision as having responsibilities relating to the environment;;";

(b) for the definition of "Department" substitute—

""the Department" means the Department of Agriculture, Environment and Rural Affairs;";

(c) for the definition of "the Directive" substitute—

""the Directive" means Directive 2011/92/EU 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 Directive 2014/52/EU";

(d) after the definition of "environmental information" insert—

""environmental impact assessment" means—

(a) the preparation of an environmental statement;

(b) the carrying out of consultations under regulation 9 and, where relevant, regulation 15;

(c) the consideration of the environmental statement and other information under regulation 16;

(d) reaching a conclusion about the likely significant effects of the project under regulation 16; and

(e) the consideration of that conclusion under regulation 16, before the decision whether or not to grant consent;";

(e) for the definition of "environmental statement" substitute—

""environmental statement" means a statement that—

(a) includes such of the information referred to in Part 1 of Schedule 1 as is relevant to the specific characteristics of a particular project or type of project and to the environmental features likely to be affected;

(b) includes at least the information referred to in Part 2 of Schedule 1;

(c) takes into account, with a view to avoiding duplication of assessments, the available results of other relevant assessments under Union or national legislation, when preparing the statement;

(d) is based on any opinion issued pursuant to regulation 7 and where such an opinion is issued, includes the information that may reasonably be required for reaching a conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment;

(e) is prepared by competent persons; and

(f) is accompanied by a statement from the proposer outlining the relevant experience or qualifications of such persons;";

(f) for the definition of 'local advertisement' substitute—

""local advertisement" means publishing or making available a notice—

(a) in one or more newspapers circulating in the immediate locality of any relevant project; or

(b) by a district council in that locality; or

(c) at library premises (within the meaning of section 11 of the Libraries Act (Northern Ireland) 2008 in that locality);";

(g) after the definition of "relevant project", insert—

""Union legislation" means any enactment in the domestic legislation of Northern Ireland giving effect to an EU obligation".

Regulation 3 (interpretation of "relevant project")

5. In regulation 3(c), for paragraphs (ii) and (iii) substitute—

"(ii) involves development which is not mentioned in Schedule 1 to, or in column 1 of the table in Schedule 2 to the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012(**5**); or

(iii) involves development for which planning permission is granted by Part 8 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015"(**6**).

Regulation 4 (exemptions)

6. In regulation 4—

(a) for paragraphs (1) and (2) substitute—

"(1) The Department may direct that a particular project is exempted—

(a) from the application of these Regulations, in accordance with Articles 1(3) or 2(4) of the Directive; or

(b) from provisions relating to public consultation, in accordance with Article 2(5) of the Directive, provided the objectives of the directive will continue to be met.

(2) The Department shall only make a direction under paragraph (1)(a) or (b) in an exceptional case and where it does so, it shall—

(a) consider whether in that case another form of assessment of the environmental effects of the proposed project in question would be appropriate;

(b) make available to the public the information obtained under that other form of assessment, information relating to the making of the direction and the reasons for making it.".

Regulation 6 (application for an opinion whether a project is a relevant project)

7. In regulation 6, for paragraphs (2) and (3) substitute—

"(2) An application under paragraph (1) shall include or be accompanied by—

(a) a map or plan sufficient to identify the land that is the subject of the proposed project and the extent of the proposed project;

(b) information on the characteristics of the project and its likely significant effects on the environment specified in Schedule 2A; and

(**5**) S.R. 2012 No. 59
(**6**) S.R. 2015 No. 70

(c) such further information or representations as the proposer may wish to provide or make including a description of any features of the project or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(2A) The selection criteria set out in Schedule 3 must be taken into account, where relevant, when compiling the information required by sub-paragraph (2)(b).

(2B) The proposer must take into account, where relevant, the available results of other relevant assessments of the effects on the environment that have been carried out pursuant to Union legislation other than legislation implementing the requirements of the Directive.

(3) The Department shall, if it considers that it has not been provided with sufficient information to enable it to give an opinion under paragraph (1), notify the proposer in writing of the matters on which it requires further information and the proposer shall supply that further information to the Department within such period as the Department may reasonably require."

Regulation 7 (opinion of the Department)

8. In regulation 7—

(a) for paragraph (1) substitute—

"(1) Where a proposer applies to the Department under regulation 6, the Department shall give to him written notice of its opinion within 90 days beginning with the date of its receipt of the application or, where it notifies the proposer under regulation 6(3) that it requires further information, the date of its receipt of that information.

(1A) In exceptional cases, where the nature, complexity, location or size of the works demands a longer period for determination, the Department may extend the deadline in paragraph (1), informing the proposer in writing of the reasons justifying the extension and of the date on which its determination is expected."

(b) after paragraph (4), add—

"(4A) Where the opinion of the Department is that a project is not a relevant project because an environmental assessment is not required, the Department must state the main reasons for not requiring such assessment, with reference to the relevant selection criteria in Schedule 3, and where proposed by the proposer, state any features of the project or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.";

(c) for paragraph (5) substitute—

"(5) The Department may, in the absence of an application under regulation 6, give its opinion whether or not a project is or would be a relevant project and where it gives an opinion under this paragraph—

(a) it shall give written notice of its opinion to any person who reasonably appears to it to be the proposer; and

(b) paragraphs (2), (3), (4), (4A), (5) and (7) shall apply as they do to an opinion given under paragraph (1).".

Regulation 9 (request as to the information to be included in an environmental statement)

9. In regulation 9, for paragraphs (1) and (2) substitute—

"(1) Before applying for consent in relation to a project, the Department must give its opinion as to the scope and level of detail of the information to be contained in the environmental statement required for that project.

(2) Before a determination has been made whether the project is or would be a relevant project, the Department shall deal with the request on the assumption that the project is a relevant project".

Regulation 9A (Co-ordination)

10. After regulation 9, insert—

"**Co-ordination**

9A.—(1) Where in relation to a particular project there is, in addition to the requirement for an environmental impact assessment to be carried out in accordance with these Regulations, also a requirement to carry out a Habitats Regulations Assessment, the Department must where appropriate ensure that the Habitats Regulations Assessment and the environmental impact assessment are co-ordinated.

(2) In this regulation, a "Habitats Regulation Assessment" means an assessment under regulation 43 of The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995.".

Regulation 12 (publicity)

11. In regulation 12—

(a) in paragraph (1)(d), for "28 days" substitute "30 days";

(b) for paragraph (4)(b), for "28 days" substitute "30 days";

(c) for paragraph (5)(b), for "28 days" substitute "30 days".

Regulation 13 (further information and evidence relating to environmental statements)

12. In regulation 13—

(a) in paragraph (4)(b), for "28 days" substitute "30 days";

(b) in paragraph (5)(b), for "28 days" substitute "30 days".

Regulation 17 (notification of decisions)

13. In regulation 17—

(a) for paragraph (1)(a) substitute—

"(a) give notice in writing of its decision to the applicant, the consultation bodies and any person from whom it received representations in relation to the application in accordance with paragraph (2);".

(b) for paragraph (2) substitute—

"(2) Each notice under paragraph (1)(a) shall inform the person concerned of the determination stating that the Department has taken into account the environmental information relating to the application and shall give a statement of—

(a) where the decision in paragraph (1)(a) is to grant consent—

(i) the reasoned conclusion of the Department pursuant to Article (1)(2)(g)(iv) of the Directive and any environmental conditions attached to the decision;

(ii) a description of any features of the project and/or measures envisaged to avoid, prevent or reduce and if possible offset significant adverse