Draft Order in Council laid before Parliament under paragraph 2(1)(a) of the Schedule to the Northern Ireland Act 2000, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2006 No. (N.I.)

NORTHERN IRELAND

The Electricity Consents (Planning) (Northern Ireland) Order 2006

Made - - - - 2006

Coming into operation in accordance with Article 1(2)

At the Court at Buckingham Palace, the ** day of ** 2006

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:–

Title, commencement and interpretation

1.—(1) This Order may be cited as the Electricity Consents (Planning) (Northern Ireland) Order 2006.

(2) Articles 2 and 3 come into operation on such day as the Department of Enterprise, Trade and Investment may by order appoint.

(3) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

Deemed planning permission, etc on grant of certain consents under Electricity Order

2.—(1) Schedule 8 to the Electricity (Northern Ireland) Order 1992 (NI 1) (consents under Articles 39 and 40 of that Order) is amended as follows.

(2) In paragraph 1 for the words from "the land to which" to the end substitute

"the place to which the application relates, that is—

(a) in the case of an application under Article 39, the place where it is proposed to construct the generating station, where the proposed extension will be or where the station proposed to be operated is situated; and

(b) in the case of an application under Article 40, the land across which the electric line is proposed to be installed or kept installed".

(3) After paragraph 1 insert—

"Objections

1A.—(1) Regulations shall make provision for securing—

(a) that notice of any application for consent under Article 39 or 40 is, in such circumstances as may be prescribed, published in such manner as may be prescribed;

(b) that notice of any such application is served—

(i) by the Department on the Department of the Environment;

(ii) on such district council or councils as the Department may direct; and

(iii) in such circumstances as may be prescribed or where the Department so directs, on such other persons as may be prescribed or, as the case may be, specified in the direction;

(c) that every notice published or served in pursuance of the regulations states the period (not being less than such minimum period as may be prescribed) within which, and the manner in which, objections to the application may be made to the Department.

(2) In relation to applications for consent under Article 39 to the extension of a generating station or to the operation of such a station in a different manner, regulations under this paragraph may include provision for enabling the Department to give directions dispensing with the requirements of the regulations in such cases as it thinks fit.

(3) Where in the case of an application for consent under Article 39 or 40 objections have been sent to the Department in pursuance of regulations made under this paragraph, the Department shall—

(a) consider those objections, together with all other material considerations; and

(b) determine whether an inquiry should be held with respect to the application.

(4) If the Department thinks it appropriate to do so, the Department shall (in exercise of its powers under Article 66), cause an inquiry to be held.

(5) If the Planning Appeals Commission is appointed to conduct the inquiry, the inquiry shall be conducted—

(a) if rules under Article 66(2) so provide, in accordance with such rules;

(b) in any other case, in accordance with Article 111(5) of the Planning (Northern Ireland) Order 1991.

(6) Before determining whether to grant any consent under Article 39 or 40 the Department shall consider—

(a) any objections which have been sent to the Department in pursuance of regulations made under this paragraph; and

(b) where an inquiry has been held in respect of the application for the consent, the report of the inquiry.

Inquiries

1B.—(1) Where in accordance with paragraph 1A(4) an inquiry is to be held in respect of an application for consent under Article 39 or 40, the Department shall inform the applicant accordingly.

(2) The applicant shall in two successive weeks publish a notice stating—

(a) the fact that the application has been made, and the purpose of it, together with a description of the place to which it relates;

(b) a place in the vicinity where a copy of the application, and of the map referred to in it, can be inspected; and

(c) the place, date and time of the inquiry.

(3) A notice under sub-paragraph (2) shall be published in at least two newspapers circulating among persons likely to be affected if the consent applied for is given.

(4) If it appears to the Department that, in addition to the publication of a notice in accordance with sub-paragraphs (2) and (3), further notification of the inquiry should be given (either by the service of notices, or by advertisement, or in any other way) in order to secure that the information specified in sub-paragraph (2)(a) to (c) is sufficiently made known to persons likely to be affected if the consent applied for is given, the Department may direct the applicant to take such further steps for that purpose as may be specified in the direction.

(5) Where in accordance with paragraph 1A(4) an inquiry is to be held in respect of an application for consent under Article 40 and the Department is proceeding concurrently as mentioned in Article 65(4), the inquiry shall extend to all the matters arising in the concurrent proceedings, and any notice of the inquiry (in addition to any other matters required to be stated in it) shall indicate the extent of the inquiry accordingly.

Additional inspectors

1C.—(1) This paragraph applies in the case where a single individual ("the lead inspector") is appointed to conduct—

(a) an inquiry by virtue of paragraph 1A(4); or

(b) an inquiry which is a combination under Article 66(3) into one inquiry—

(i) of two or more such inquiries; or

(ii) of one or more such inquiries and one or more other inquiries.

(2) At any time after appointing that individual, the Department may direct him—

(a) to consider such matters relating to the conduct of the inquiry as are specified in the direction; and

(b) to make recommendations to the Department about those matters.

(3) After considering the recommendations of the lead inspector, the Department may—

(a) appoint for the purposes of the inquiry such number of additional inspectors as it thinks appropriate; and

(b) direct that each additional inspector shall consider such of the matters to which the inquiry relates as are allocated to him by the lead inspector.

(4) An additional inspector shall—

(a) comply with every direction as to procedural matters given to him by the lead inspector; and

(b) report to the lead inspector on every matter allocated to him.