STATUTORY RULES OF NORTHERN IRELAND

2015 No. 182

EUROPEAN COMMUNITIES

NATURE CONSERVATION

The Conservation (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2015

Made - - - -	*25th March 2015*
Coming into operation	*1st April 2015*

The Department of the Environment is a department designated(**1**) for the purpose of making regulations under section 2(2) of the European Communities Act 1972(**2**) in relation to the environment. The Department makes these Regulations in exercise of the powers conferred by that section.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Conservation (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2015 and shall come into operation on 1st April 2015.

(2) In these Regulations "the Principal Regulations" means the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995(**3**).

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

Amendments to the Principal Regulations

2.—(1) The Principal Regulations are amended in accordance with paragraphs (2) to (6).

(2) In regulation 2(2) (Interpretation)—

(a) for the definition "the 1991 Order" substitute ""the 2011 Act" means the Planning Act (Northern Ireland) 2011(**5**)";

(b) in the definition "enterprise zone order" for "Article 19 of the 1991 Order" substitute "section 39 of the 2011 Act";

(**1**) S.I. 2008/301.
(**2**) 1972 c.68.
(**3**) S.R. 1995/380
(**4**) 1954 c.33 (N.I.).
(**5**) 2011 c.25 (N.I.)

(c) in the definition of "enterprise zone scheme" for "Article 2(2) of the 1991 Order" substitute "section 250 of the 2011 Act";

(d) in the definition "general development order and special development order" for " Article13(3) of the 1991 Order" substitute "section 32 of the 2011 Act";

(e) in the definition "simplified planning zone" for "Article 14 of the 1991 Order" substitute "section 35 of the 2011 Act";

(f) in the definition of "statutory undertaker" for "1991 Order" substitute "2011 Act".

(3) In regulation 13(6) for "1991 Order" substitute "2011 Act".

(4) In regulation 16(4)(a) for "Part IV of the 1991 Order" substitute " section "Part 3 of the 2011 Act".

(5) For regulations 49 to 61 substitute—

"**Planning decisions**

49.—(1) Regulations 43 (assessment of implications for European sites in Northern Ireland and European offshore marine sites) and 44 (considerations of overriding public interest) apply in relation to—

(a) granting planning permission on an application made under Part 3 of the 2011 Act (planning control);

(b) granting planning permission on an application made under section 213 of the 2011 Act (urgent Crown development);

(c) granting planning permission or upholding a decision of the council to grant planning permission (whether or not subject to the same conditions and limitations as those imposed by the council), on determining an appeal under section 58 (appeals), or section 60 (appeal against failure to take planning decision) of the 2011 Act in respect of an application for planning permission;

(d) making an order which grants planning permission under section 73 of the 2011 Act (orders requiring discontinuance of use or alteration or removal of buildings or works) or section 73 as applied by section 230 of that Act in respect of the winning and working of minerals;

(e) granting planning permission under section 145(1) of the 2011 Act (appeals against enforcement notice—supplementary provisions relating to planning permission);

(f) stating under section 193(1)(c)(i) of the 2011 Act (action by council following service of purchase notice) that planning permission for any other development might reasonably be expected to be granted, and

(g) directing, under paragraph 3 of Schedule 8 to the Electricity (Northern Ireland) Order 1992(**6**) that planning permission shall be deemed to be granted.

(2) Where regulations 43 and 44 apply, the council, the Department or, as the case may be, the planning appeals commission may, if it considers that any adverse effects of the plan or project on the integrity of a European site or a European offshore marine site would be avoided if the planning permission were subject to conditions or limitations, grant planning permission or, as the case may be, take action which results in planning permission being granted subject to those conditions or limitations.

(3) Where regulations 43 and 44 apply, outline planning permission shall not be granted unless the council, the Department, or, as the case may be, the planning appeals commission, is satisfied (whether by reason of the conditions and limitations to which the outline planning

(**6**) 1992 No.231 (N.I.1)

permission is to be made subject or otherwise) that no development likely to adversely affect the integrity of a European site or a European offshore marine site could be carried out under the permission, whether before or after obtaining approval of any reserved matters.

In this paragraph "outline planning permission" and "reserved matters" have the same meaning as in section 62(1) of the 2011 Act (duration of outline planning permission).

Planning permission: duty to review

50.—(1) Subject to the following provisions of this regulation, regulations 45 (review of existing decisions and consents, etc.) and 46 (consideration on review) apply to any planning permission or deemed planning permission unless—

(a) the development to which it related has been completed; or

(b) it was granted subject to a condition as to the time within which the development to which it related was to be begun and that time has expired without the development having been begun; or

(c) it was granted for a limited period and that period has expired.

(2) Regulations 45 and 46 do not apply to any planning permission granted or deemed to have been granted—

(a) by a development order (but see regulations 55 to 57);

(b) by virtue of the adoption of a simplified planning zone scheme or of alterations to such a scheme (but see regulation 58);

(c) by virtue of the taking effect of an order designating an enterprise zone or the adoption of a modified enterprise zone scheme (but see regulation 59).

(3) Where planning permission falls to be reviewed under the review provisions—

(a) it shall be reviewed by the council;

(b) the power conferred by section 68 of the 2011 Act (revocation or modification of planning permission by a council) is exercisable by the council for the purpose of reviewing, or giving effect to a review of any planning permission which falls to be reviewed.

Planning permission: consideration on review

51.—(1) In reviewing any planning permission or deemed planning permission in pursuance of the review provisions, the council shall—

(a) consider whether any adverse effects could be overcome by entering into a planning agreement under section 76 of the 2011 Act (planning agreements); and

(b) if it considers that the effects could be so overcome, invite those concerned to enter into such an agreement;

and so far as the adverse effects are not thus overcome the council shall make such order under section 68 or 73 of the 2011 Act, as may be required.

(2) Where the council ascertains that the carrying out or, as the case may be, the continuation of the development would adversely affect the integrity of a European site or a European offshore marine site, it nevertheless need not proceed under the review provisions if and so long as it considers that there is no likelihood of the development being carried out or continued.

Effect of revocation or modification orders made on review

52.—(1) An order made under section 68 of the 2011 Act, pursuant to regulation 50, takes effect immediately upon the service of the notices required by section 68(4) of the 2011 Act, and where there is more than one such notice and those notices are served at different times, upon the service of the last such notice to be served.

(2) Where the Department determines not to confirm such an order—

(a) the order shall cease to have effect as from the time of that determination;

(b) the permission revoked or modified by it shall thereafter have effect as if the order had never been made;

(c) any period specified in the permission for taking any action, being a period which had not expired prior to the date upon which the order took effect under paragraph (1) shall be extended by a period equal to that during which the order had effect; and

(d) there was substituted for any date specified in the permission as being a date by which any action should be taken, ("the specified date"), not being a date falling prior to the date upon which the order took effect under paragraph (1), such date as post-dates the specified date by a period equal to that during which the order had effect.

(3) An order under section 68 of the 2011 Act (revocation or modification of planning permission by council) made in pursuance of regulation 50, shall not affect so much of the development authorised by the permission as was carried out prior to the order taking effect.

Effect of discontinuance orders made on review

53.—(1) An order made under section 73 of the 2011 Act pursuant to regulation 50 insofar as it requires the discontinuance of a use of land or imposes conditions upon the continuance of a use of land, takes effect immediately upon the service of the notices required by section 74(3) of the 2011 Act or, where there is more than one such notice and those notices are served at different times, upon service of the last such notice to be served.

(2) Where the Department determines not to confirm such an order—

(a) the order ceases to have effect as from the time of that determination; and

(b) the use which by the order was discontinued or upon which conditions were imposed —

(i) may thereafter be continued as if the order had never been made; and

(ii) shall be treated for the purposes of the 2011 Act as if it had continued without interruption throughout the period during which the order took effect.

(3) An order made under section 73 of the 2011 Act in respect of the winning and working of minerals, made in pursuance of regulation 50, shall not affect anything done prior to the site becoming a European site or a European offshore marine site.

Planning permission: supplementary provisions as to compensation

54.—(1) Where the Department decides not to confirm an order under section 68 of the 2011 Act which has taken effect under regulation 52(1), any claim for compensation under section 26 of the Land Development Values (Compensation) Act (Northern Ireland) 1965(**7**) (compensation where planning permission is revoked or modified) shall be limited to any loss or damage directly attributable to the permission being suspended or temporarily modified for the duration of the period between the order taking effect and the Department deciding not to confirm the order.

(**7**) 1965 c.23