STATUTORY RULES OF NORTHERN IRELAND

2015 No. 66

PLANNING

The Planning (Control of Advertisements) Regulations (Northern Ireland) 2015

Made - - - - 17th February 2015
Coming into operation 1st April 2015

The Department of the Environment makes the following Regulations in exercise of the powers conferred on it by sections 130(1) and (2), and 247(1) of the Planning Act (Northern Ireland) 2011(**1**).

PROSPECTIVE

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Planning (Control of Advertisements) Regulations (Northern Ireland) 2015 and come into operation on 1st April 2015.

Commencement Information
I1 Reg. 1 in operation at 1.4.2015, see **reg. 1**

Interpretation

2.—(1) In these Regulations—

"the 1965 Act" means the Land Development Values (Compensation) Act (Northern Ireland) 1965(**2**);

"the 2011 Act" means the Planning Act (Northern Ireland) 2011;

"amenity" includes aural and visual amenity;

(**1**) 2011 c.25 (N.I.)
(**2**) 1965 c.23 (N.I.) as amended by 2011 c.25 (N.I.) section 179(4) Schedule 4

"area of outstanding natural beauty" means an area designated by an order made under Article 14(1) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985(**3**);

"balloon" means a tethered balloon or a similar tethered object;

"commission" means the planning appeals commission;

"deemed consent" means consent given by regulation 5;

"Department" means the Department of the Environment;

"electronic communication" has the meaning assigned to it by section 4 of the Electronic Communications Act (Northern Ireland) 2001(**4**);

"express consent" has the meaning given by regulation 4(1)(a);

"government department" has the meaning assigned to it by section 212 of the 2011 Act;

"illuminated advertisement" means an advertisement which is designed or adapted to be illuminated by artificial lighting, directly or by reflection and which is so illuminated;

"interested council" has the meaning assigned to it by section 107(6) of the 2011 Act;

"National Park" means an area designated by an order made under Article 12(l) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985;

"site" means any land on which an advertisement is displayed but does not include a hoarding or similar structures;

"standard conditions" means the conditions specified in Schedule 1.

(2) Any reference in these Regulations to a person displaying an advertisement includes—

(a) the owner and occupier of the land on which the advertisement is displayed;

(b) any person to whose goods, trade, business or other concerns publicity is given by the advertisement; and

(c) the person who undertakes or maintains the display of an advertisement.

(3) Except in Schedule 2, Class A, any reference in these Regulations to the land, the building, the site or premises on which an advertisement is displayed includes, in the case of an advertisement which is displayed on, or consists of, a balloon, a reference to the land, the building, the site or other premises to which the balloon is tethered and to all land, buildings or other premises normally occupied therewith.

(4) In these Regulations, and in relation to the use of electronic communications for any purpose of these Regulations which is capable of being carried out—

(a) the expression "address" includes any number or address used for the purpose of such communications;

(b) references to plans, notices or other documents or to copies of such things include references to such documents or copies of them in electronic form.

(5) Paragraphs (6) to (10) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send any plan, notice or other document to any other person ("the recipient").

(6) The requirement shall (except in a case referred to in paragraph (7)) be taken to be fulfilled where the notice or other document transmitted by means of electronic communication is—

(a) capable of being accessed by the recipient;

(b) legible in all material respects; and

(c) sufficiently permanent to be used for subsequent reference.

(**3**) S.I. 1985/170 (N.I.1)
(**4**) 2001 c.9 (N.I.) as amended by 2003 c.21

(7) The cases are—

(a) serving notice under regulation 6(8);

(b) serving notice under regulation 7(2);

(c) serving notice requiring application for express consent under regulation 14;

(d) serving notice under section 70(2) of the 2011 Act as applied by regulation 16.

(8) In paragraph (6), "legible in all material respects" means that the information contained in the notice or document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(9) Where the electronic communication is received by the recipient outside the recipient's business hours, it shall be taken to have been received on the next working day; and for this purpose "working day" means a day which is not a Saturday, Sunday or a public holiday.

(10) A requirement in these Regulations that any application, notice or other document should be in writing is fulfilled where the document meets the criteria in paragraph (6).

Commencement Information

I2 Reg. 2 in operation at 1.4.2015, see **reg. 1**

Powers to be exercised in the interests of amenity and public safety

3.—(1) A council shall exercise its powers under these Regulations only in the interests of amenity and public safety, taking into account—

(a) the provisions of the local development plan, so far as they are material; and

(b) any other relevant factors.

(2) Without prejudice to the generality of paragraph (1)(b)—

(a) factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, archaeological, architectural or cultural interest, disregarding, if it thinks fit, any advertisements being displayed there;

(b) factors relevant to public safety include—

(i) the safety of any person who may use any road, railway, waterway (including coastal waters), docks, harbour or airfield;

(ii) whether any display of advertisements is likely to obscure, or hinder the ready interpretation of any road traffic sign, railway sign, or aid to navigation by water or air.

(3) In determining an application for consent for the display of advertisements, or considering whether to make an order revoking or modifying a consent, the council may have regard to any material change in circumstances likely to occur within the period for which the consent is required or granted.

(4) Unless it appears to the council to be required in the interests of amenity or public safety, an express consent for the display of advertisements shall not contain any limitation or restriction relating to the subject matter, content or design of what is to be displayed.

(5) A consent for the display of advertisements shall take effect as consent for the use of the site for the purposes of the display, whether by the erection of structures or otherwise, and for the benefit of any person interested in the site.

Commencement Information
I3 Reg. 3 in operation at 1.4.2015, see **reg. 1**

Requirement for consent

4.—(1) Subject to paragraph (2), no advertisement may be displayed unless consent for its display has been granted—

(a) by the council or the Department on an application in that behalf (referred to in these Regulations as "express consent"); or

(b) by regulation 5 (referred to in these Regulations as "deemed consent").

(2) The prohibition in paragraph (1) does not apply to an advertisement within any class set out in Schedule 2, which complies with—

(i) any condition there specified; and

(ii) the standard conditions, except that paragraph 4 of Schedule 1 does not apply in the case of any Class F advertisement.

Commencement Information
I4 Reg. 4 in operation at 1.4.2015, see **reg. 1**

PART 2

DEEMED CONSENT

Deemed consent for the display of advertisements

5.—(1) Subject to regulations 6 and 7, deemed consent is hereby granted for the display of an advertisement falling within any class specified in Part 1 of Schedule 3, subject—

(a) to any conditions and limitations specified in that Part in relation to that class; and

(b) to the standard conditions, except that paragraph 4 of Schedule 1 does not apply in the case of any Class 13 advertisement.

(2) Part 2 of Schedule 3 applies for the interpretation of that Schedule.

Commencement Information
I5 Reg. 5 in operation at 1.4.2015, see **reg. 1**

Directions restricting deemed consent

6.—(1) If the Department is satisfied, upon a proposal made to it by a council, that the display of advertisements of any class or description specified in Schedule 3, other than Class 10 or 12, should not be undertaken in any particular area or in any particular case without express consent, it may direct that the deemed consent for that class or description shall not apply in that area or in that case, for a specified period or indefinitely.

(2) Before making any such direction, the Department shall—

(a) where the proposal relates to a particular area, publish, or cause to be published, in at least one newspaper circulating in the locality and, where the Department maintains a website for the purpose of advertisement, on its website a notice that such a proposal has been made, and such a notice shall—

(i) contain a full statement of the effect of the direction,

(ii) name a place or places in the locality where a copy of the proposed direction and of a map defining the area concerned may be inspected at all reasonable hours; and

(b) where the proposal relates to a particular case, serve, or cause to be served, on the owner and occupier of the land affected and on any other person who, to its knowledge, proposes to display on that land an advertisement of the class or description concerned, a notice that a proposal has been made, specifying the land and the class or description of advertisement concerned.

(3) A notice under paragraph (2) shall state that any representation about the making of a direction may be made to the Department in writing within such period, being not less than 21 days from the date when the notice was first published or served (as the case may be), as is specified in the notice.

(4) The Department shall not make a direction under this regulation until after the expiry of the specified period.

(5) In determining whether to make a direction, the Department—

(a) shall take into account any representation made in accordance with paragraph (3) (a "paragraph (3) representation");

(b) where any paragraph (3) representation consists of an objection, may give to the council and to any other person who has made a paragraph (3) representation, an opportunity of appearing before and being heard by the commission and shall take into account any report produced by the commission; and

(c) may modify the proposal of the council if—

(i) it has given to that council and every person who has made a paragraph (3) representation, notice in writing of its intention and the reasons for it and has given them a reasonable opportunity to respond; and

(ii) the intended modification does not extend the area of land specified in the proposal.

(6) Where the Department makes a direction, it shall send it to the council, with a statement of its reasons for making it, and shall send a copy of that statement to every person who has made a paragraph (3) representation.

(7) Notice of the making of any direction for a particular area shall be published by the council in at least one newspaper circulating in the locality and, where the council maintains a website for the purpose of advertisement, by publication of the notice on the website, and such notice shall—

(a) contain a full statement of the effect of the direction;

(b) name a place or places in the locality where a copy of the direction and of a map defining the area concerned may be inspected at all reasonable hours; and

(c) specify a date when the direction shall come into force, being at least 14 and not more than 28 days after the first publication of the notice.

(8) Notice of the making of any direction for a particular case shall be served by the council on the owner and on any occupier of the land to which the direction relates, and on any other person who, to the knowledge of the council, proposes to display on that land an advertisement of the class or description concerned.