STATUTORY RULES OF NORTHERN IRELAND

2015 No. 49 (C. 5)

PLANNING

The Planning (2011 Act) (Commencement No.3) and (Transitional Provisions) Order (Northern Ireland) 2015

Made - - - - 12th February 2015

The Department of the Environment makes the following Order in exercise of the powers conferred by sections 247(6) and 254(1) of the Planning Act (Northern Ireland) 2011 [F1]:

Annotations:
F1 2011 c.25 (N.I.)

Citation and interpretation

1.—(1) This Order may be cited as the Planning (2011 Act) (Commencement No.3) and (Transitional Provisions) Order (Northern Ireland) 2015.

(2) In this Order

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

"1991 Order" means the Planning (Northern Ireland) Order 1991 [F2];

"council" means a district council;

"PAC" means the Planning Appeals Commission;

"transfer date" means 1st April 2015.

(3) In this Order references to a section are to a section of the 2011 Act and references to an Article are to an Article of the 1991 Order unless otherwise stated.

Annotations:
F2 S.I. 1991/1220 (N.I. 11)
as amended by
S.I. 2003/430 (N.I. 7)
,
S.I
. 2006/1252 (N.I. 7) and
2011 c.25 (N.I.)

Provision conferring power to make secondary legislation

2. To the extent that the provisions of the 2011 Act listed in Schedule 1, confer or relate to the power to make orders, rules and regulations, those provisions come into operation on 13th February 2015 for the purposes of enabling orders, rules and regulations to be made.

Appointed day

3. The provisions of the 2011 Act listed in Schedule 1, insofar as they are not already commenced, shall come into operation for all other purposes on the transfer date.

Transitional provisions

4. The transitional provisions set out in Schedule 2 shall have effect from the transfer date.

Revocation

5. On the transfer date the following statutory rules are revoked—

(a) the Planning (Control of Major-Accident Hazards) Regulations (Northern Ireland) 2000 [F3] except regulation 5,

(b) the Planning (Application of Subordinate Legislation to the Crown) Order (Northern Ireland) 2006 [F4], and

(c) the Planning (Electronic Communications) Order (Northern Ireland) 2006 [F5] except Article 7 and Schedule 2; and

(d) the Planning (Control of Major-Accident Hazards) Regulations (Northern Ireland) 2009 [F6] except regulation 2.

Annotations:

F3 S.R. 2000 No. 101

F4 S.R. 2006 No. 218

F5 S.R. 2006 No. 276

F6 S.R. 2009 No. 399

Sealed with the Official Seal of the Department of the Environment on 12th February 2015

Department of the Environment

Angus Kerr
A senior officer of the

SCHEDULE 1

Articles 2 and 3

Provisions of the Act coming into operation

Part 1 (functions of the Department of the Environment with respect to the development of land)

Part 2 (local development plans)

Part 4 (additional planning control) except Chapter 4

Part 5 (enforcement)

Part 6 (compensation)

Part 7 (purchase of estates in certain land affected by planning decisions)

Part 8 (further provisions as to historic buildings)

Part 9 (the planning appeals commission)

Part 10 (assessment of council's performance or decision making)

Part 11 (application of Act to crown land)

Part 13 (financial provisions)

Part 14 (miscellaneous and general provisions) insofar as they are not already commenced

Section 252

Section 253 except insofar as it relates to the following repeals mentioned in Schedule 7 —

(i) the repeal of Part 3 of the Planning (Northern Ireland) Order 1991;

(ii) in relation to regulations made under Part 3 of the Planning (Northern Ireland) Order 1991, the repeal of Article 129(1);

(iii) the repeal of paragraph 4 of the Schedule to the Strategic Planning (Northern Ireland) Order 1999 [F7];

(iv) the repeal of Article 27(b) and Article 28 of the Planning (Amendment) (Northern Ireland) Order 2003 [F8]; and

(v) the repeal of Article 5 of the Planning Reform (Northern Ireland) Order 2006 [F9]

Annotations:
F7 S.I. 1999/660 (N.I. 4)
F8 S.I. 2003/430 (N.I. 7)
F9 S.I. 2006/1252 (N.I. 7)

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F7 S.I. 1999/660 (N.I. 4)
F8 S.I. 2003/430 (N.I. 7)
F9 S.I. 2006/1252 (N.I. 7)

Schedule 1 (simplified planning zones)

Schedule 4 (amendments to the Land Development Values (Compensation) Act (Northern Ireland) 1965 (c.23))

Schedule 5 (The historic buildings council)

Schedule 6 (minor and consequential amendments)

Schedule 7 (repeals)

SCHEDULE 2

Article 4

Transitional provisions

Transitional provisions: preliminary

1. In relation to any application, appeal, enforcement action or other matter dealt with in this Schedule, "appropriate council" means the council for the district in which is situated the land to which any application, appeal, enforcement action or other matter dealt with in this Schedule relates.

Transitional provisions: applications

2.—(1) This paragraph applies as respects any application for planning permission, or for any consent, approval, certificate or other determination made to the Department under the 1991 Order (or any order or regulation made under the 1991 Order) before the transfer date which has not been determined by that date.

(2) Subject to sub-paragraphs (3) and (4) such an application shall be treated as if it had been made to the appropriate council under the 2011 Act except that—

(a) in respect of an application for planning permission—

(i) any provision of a development order requiring an application to be accompanied by a statement relating to the matters specified in section 40(3) shall not apply,

(ii) any provision of a development order requiring service of a notice of the application on occupiers of neighbouring land shall not apply where before the transfer date, the

information required to be provided by the development order was provided by the Department for the purposes of section 41(1),

(iii) any consultation carried out by the Department for the purposes of Article 15 of the Planning (General Development) Order (Northern Ireland) 1993 shall not be treated as a prescribed requirement for the purposes of section 229; and

(b) in respect of an application for listed building consent any provision in regulations for the purposes of section 86(2) requiring such an application to be accompanied by a statement relating to the matters specified in section 86(2) shall not apply.

(3) Where an application to which this paragraph applies is one to which the Department applied Article 31 that application shall be treated as an application to which section 26 applies.

(4) Where an application to which this paragraph applies is included in a list entitled "Retained Planning Applications" published on the Department's website on the transfer date that application shall be treated as if the Department had given a direction under section 29 that the application was to be referred to it and section 29 shall apply to that application accordingly.

Transitional provisions: appeals

3.—(1) This paragraph applies to appeals against relevant decisions; and in this paragraph a "relevant decision" is a decision or determination of the Department under the 1991 Order (or any order or regulations made under the 1991 Order) which was made before the transfer date.

(2) Where an appeal to which this paragraph applies was made to the PAC before the transfer date but has not been, before that date, decided by the PAC then for the purposes of that appeal the relevant decision shall be treated as if it had been made by the appropriate council and anything done by, to or in relation to the Department in connection with that appeal shall be treated as if it had been done by, to or in relation to that council.

(3) Where an appeal to which this paragraph applies was not made to the PAC before the transfer date but the time limit prescribed in the 1991 Order (or any order or regulation made under the 1991 Order) for making such an appeal has not expired before the transfer date then for the purposes of making such an appeal the relevant decision shall be treated as if it had been made by the appropriate council.

(4) Notwithstanding the repeal of the 1991 Order an appeal as is mentioned in sub-paragraph (3) must be made to the PAC before the expiry of the period prescribed by the 1991 Order (or any order or regulation made under the 1991 Order) for making such an appeal.

(5) An appeal to which this paragraph applies shall be determined in accordance with the 2011 Act except that sections 59, 205 and 206 do not apply to such an appeal.

(6) Nothing in this paragraph shall affect the generality of sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954 [F10].

Annotations:
F10 1954 c.33 (N.I.)

Transitional provisions: enforcement

4.—(1) This paragraph applies to anything done by, to or in relation to the Department (including legal proceedings) in connection with its functions under Part VI (Enforcement) of the 1991 Order (or any order or regulation made under the 1991 Order).

(2) Subject to sub-paragraph (3), anything to which this paragraph applies shall be treated as if it had been done by, to or in relation to the appropriate council in connection with its functions under Part 5 (Enforcement) of the 2011 Act (or any order or regulation made under the 2011 Act).