STATUTORY RULES OF NORTHERN IRELAND

2007 No. 421

AGRICULTURE, NORTHERN IRELAND

The Environmental Impact Assessment (Agriculture) Regulations (Northern Ireland) 2007

Made - - - -	*2nd October 2007*
Coming into operation	*5th November 2007*

The Department of Agriculture and Rural Development, being a Department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) hereby makes the following Regulations:

PART 1

General Provisions

Title, application and commencement

1. These Regulations may be cited as the Environmental Impact Assessment (Agriculture) (Northern Ireland) Regulations 2007, and shall come into operation on 5 November 2007.

Interpretation

2.—(1) In these Regulations—

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding or keeping, the use of land as grazing land, meadowland, osier land, reed beds, market gardens and nursery grounds;

"additional environmental information" means any additional information required under regulation 13(1);

"Area of Special Scientific Interest" means an area so designated by the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985(**3**)

"consent" means consent granted under regulation 16(1);

(**1**) S.I. 2000/2812 and S.I. 2000/3238
(**2**) 1972 c. 68
(**3**) S.I. 1985/170 (N.I. 1)

"consultation bodies" means the consultation bodies listed in Schedule 5, and any other public authority, statutory body or other organisation which the Department may consider to have any interest in or holds any information which may be relevant to a project;

"cultivated" means cultivated by physical means (including ploughing and harrowing) or chemical means (including the application of fertilisers);

"the Department" means the Department of Agriculture and Rural Development;

"EEA State" means a member State, Norway, Iceland or Liechtenstein;

"environmental statement" means a statement that includes—

(a) as much of the information in part 1 of Schedule 3 as is reasonably required to assess the environmental effects of the project and which the applicant for consent can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile, and

(b) at least the information referred to in Part 2 of Schedule 3;

"European site or Area of Special Scientific Interest" means a site mentioned in paragraph (a), (b), (d) or (e) of regulation 10(1) of the Habitats regulations;

"the Habitats Directive" means Council Directive 92/43/EEC(**4**) on the conservation of natural habitats and of wild fauna and flora, as last amended by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded(**5**);

"the Habitats Regulations" means the Conservation (Natural Habitats, &c) Regulations (Northern Ireland) 1995(**6**);

"project" means—

(c) the execution of construction works or other installations or schemes; or

(d) other interventions in the natural surroundings and landscape;

"the relevant land" means the land on which the project is to be (or has been) carried out;

"restructuring project" means a project for the restructuring of rural land holdings;

"screening decision" means a decision made by the Department under regulation 8(1) or a decision deemed to be made by the Department under regulation 8(7);

"screening notice" means a notice served under regulation 6;

"sensitive area" means—

(e) an area of outstanding natural beauty designated as such by an Order made by the Department of the Environment under the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985;

(f) a National Park;

(g) a scheduled monument within the meaning of section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979(**7**);

(h) Special Areas of Conservation;

(i) Special Protected Areas;

(**4**) O.J. No. L206, 22.7.1992, p. 7.
(**5**) O.J. No. L 236, 23.9.2003, p. 667–70. See Annex II: List referred to in Article 20 of the Act of Accession, 16. Environment, C. Nature protection.
(**6**) S.R. 1995 No. 380
(**7**) 1979 c.46

(j) Areas of Special Scientific Interest;

"significant project" means an uncultivated land project or a restructuring project which the Department has decided under regulation 8 or is deemed to have decided under regulation 8, is likely to have significant effects on the environment;

"uncultivated land" means land which has not been cultivated in the previous 15 years;

"uncultivated land project" means a project to increase the productivity for agriculture of uncultivated land or a semi-natural area, and includes projects to increase the productivity for agriculture of such land to below the norm.

(2) Other expressions used in both these Regulations and in the EIA Directive or the Habitats Directive have the same meanings in these Regulations as they have in the relevant Directive.

(3) All notifications, applications, notices, representations, requests, approvals and agreements under these Regulations must be made or given in writing.

(4) "Writing" in paragraph (3), except where it applies to notices under regulations 24 and 26, includes an electronic communication within the meaning of the Electronic Communications Act 2000(**8**), but notifications required to be made by the Department to any person may only be made by an electronic communication if the intended recipient—

(a) has himself used that form of electronic communication in communicating with the Department under any provision in these Regulations, or

(b) has otherwise represented that that form of electronic communication is a means by which persons can communicate with him.

Extent of Regulations

3.—(1) These Regulations apply to any restructuring project or uncultivated land project, unless it is exempt under paragraph (2) or (3).

(2) A restructuring project or an uncultivated land project is exempt if it—

(a) constitutes development to which the Planning (Northern Ireland) (Environmental Impact Assessment) Regulations 1999(**9**) apply;

(b) is directed by the Department to be exempt from regulations 4 to 34 of these Regulations, in accordance with Article 2(3) of the EIA Directive;

(c) constitutes the carrying out of improvement works by a drainage body within the meaning of the Environmental Impact Assessment (Land Drainage Improvement Works) Regulations (Northern Ireland) 2006(**10**);

(d) is a project mentioned in regulation 3(2) of the Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2000(**11**);

(e) constitutes a relevant project under regulation 3(2) of the Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2005(**12**);

(f) constitutes the restoration of a field boundary under regulation 3(2)(a) of the Countryside Management Regulations (Northern Ireland) 2005(**13**), and Article 4(3) of the Environmentally Sensitive Areas Designation Order (Northern Ireland) 2005(**14**);

(**8**) 2000 c. 7.
(**9**) S.R. 1999 No. 73
(**10**) S.R.2006 No. 34
(**11**) S.R. 2000 No. 84
(**12**) S.R. 2005 No. 32
(**13**) S.R. 2005 No. 268
(**14**) S.R. 2005 No. 276

(3) In the case of a project which the Department decides is likely to have a significant effect on a European site or Area of Special Scientific Interest (either alone or in combination with other projects), the power to direct that the project is exempt under paragraph (2) is only exercisable to the extent that compliance with the Habitats Directive is secured in relation to the project.

(4) Where the Department proposes to give a direction under paragraph (2), it shall—

(a) consider whether any other kind of assessment of the project would be appropriate; and

(b) take such steps as the Department considers appropriate to bring to the attention of the public—

(i) the information considered in making the direction and the reasons for doing so, and

(ii) the information obtained from any assessment of the project under sub-paragraph (a).

PART 2

Screening

Requirement for a screening decision

4.—(1) A person must not begin or carry out an uncultivated land project or a restructuring project of an extent which is equal to or exceeds the threshold applicable to it (calculated in accordance with regulation 5) unless he has first obtained a screening decision permitting the project to proceed.

(2) A person must not begin or carry out any uncultivated land project or restructuring project on land to which a relevant screening notice applies unless he has first obtained a screening decision permitting the project to proceed.

(3) In this regulation "relevant screening notice" means a screening notice which states that it applies to the type of project which is to be carried out.

Thresholds

5.—(1) This regulation provides the method for determining whether the extent of a project is equal to or exceeds the threshold applicable to it.

(2) The threshold for a type of project specified in column 1 of Schedule 1 is set out opposite thereto in column 2 or 3.

(3) Paragraphs (4) and (5) apply where a project consists of only one of the types of project specified in column 1 of Schedule 1.

(4) Where a project is to be carried out wholly outside a sensitive area, the threshold applicable to it is that specified for that type of project in column 2 of Schedule 1.

(5) Where a project, or any part of it, is to be carried out in a sensitive area, the threshold applicable to it is that specified for that type of project in column 3 of Schedule 1.

(6) Where a project is made up of more than one of the types of project specified in column 1 of Schedule 1—

(a) each relevant part of the project must be assessed so as to determine the threshold applicable to that part, and

(b) if any relevant part of the project equals or exceeds the threshold applicable to that part, then the entire project is to be treated as having an extent equal to or exceeding the threshold applicable to it.

Screening notices

6.—(1) The Department may by notice direct that thresholds under these Regulations do not apply to an area of land specified in the notice by serving a notice under this regulation.

(2) The Department may only serve a screening notice if—

(a) it reasonably believes that a project is likely to be carried out on the land;

(b) the extent of the project would fall below the threshold applicable to it under these Regulations in the area where it would be carried out; and

(c) it considers, in accordance with the selection criteria in Schedule 2, that the project would be likely to have significant effects on the environment.

(3) A screening notice cannot—

(a) apply for more than five years from the date it is served; or

(b) relate to an area of land which is greater than the area on which the Department reasonably considers the project is likely to be carried out and in any event—

(i) in the case of a notice relating to uncultivated land projects, to an area greater than 2 hectares, or

(ii) in the case of a notice relating to restructuring projects, to an area greater than 100 hectares.

(4) A screening notice must—

(a) state whether it applies to—

(i) uncultivated land projects,

(ii) restructuring projects, or

(iii) both such projects;

(b) contain the reasons why it is being served;

(c) contain details of the land to which it applies and, in the case of a screening notice which applies to both uncultivated land projects and restructuring projects, details of which land is covered by which aspect of the notice;

(d) contain the date on which it expires; and

(e) explain the procedures for appealing against it.

(5) A copy of the screening notice must be served on every owner and occupier of the land.

Application for a screening decision

7.—(1) An application for a screening decision must—

(a) be made to the Department;

(b) contain a plan sufficient to identify the relevant land;

(c) contain a brief description of the nature, extent and purpose of the project and of its possible effects on the environment;

(d) contain any other information or representations as the applicant may wish to provide or make.

(2) If the Department considers that it does not have sufficient information to make a screening decision it may ask the applicant to supply any additional information it requires.

(3) The Department must notify the applicant of the date on which it received the application for a screening decision.