STATUTORY RULES OF NORTHERN IRELAND

2006 No. 518

FORESTRY

Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006

Made - - - - 7th December 2006

Coming into operation 4th January 2007

The Department of Agriculture and Rural Development (**1**), being a Department designated for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to measures relating to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment, in exercise of the powers conferred on it by the said section 2(2) and of all other powers enabling it in that behalf, hereby make the following Regulations:

PART I

INTRODUCTORY

Citation and commencement

1. These Regulations may be cited as the Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006 and shall come into operation on 4th January 2007.

Interpretation

2.—(1) In these regulations—

"additional information" in any case where an environmental statement has been prepared means any information relating to the statement which is not contained in it;

"afforestation" means initial afforestation (which has the same meaning as in paragraph 1 (d) of annex II to the Directive);

"consent" means a consent under regulation 5;

"consultation bodies" in relation to any project means—

(a) the Department of the Environment; and

(**1**) S.I. 1988/785

(**2**) 1972 C.68 Section 2 is subject to Schedule 2 to that Act and is to be read with S.I. 1984/703 (N.I. 3) and S.I. 1994/2795 (N.I. 15)

(b) any other public body, statutory authority or organisation which exercises statutory functions or is otherwise designated by any statutory provision as having responsibilities relating to the environment;

"deforestation" means deforestation for the purposes of conversion to another type of land use (which has the same meaning as in paragraph 1(d) of Annex II to the Directive);

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

"development" means development within the meaning of Article 11 of the Planning (Northern Ireland) Order 1991(**3**);

"the Directive" means Council Directive 85/337/EEC(**4**) on the assessment of the effects of certain public and private projects on the environment as amended by Council Directive 97/11/EC(**5**) and Council Directive 2003/35/EC(**6**);

"EEA State" means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed in Brussels on 17th March 1993;

"environmental information" means information in the environmental statement and any other information (including any additional information) provided in accordance with these Regulations in relation to an application for consent relating to the likely environmental effects of the project which is the subject of the application;

"environmental statement" means a statement—

(a) that includes such of the information referred to in Part I of Schedule 1 as is reasonably required to assess the environmental effects of the project and which the applicant can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile, but

(b) that includes at least the information referred to in Part II of Schedule 1;

"forest quarry works" means operations on land used or to be used for the purposes of forestry, or on land held or occupied with that land, to obtain the materials required for forest road works;

"forest road works" means the formation, alteration or maintenance of private ways on land used or to be used for the purposes of forestry;

"general advertisement" means publication of a notice—

(a) in the Belfast Gazette; and

(b) on an official website maintained by the Department;

"interested parties" means those persons who notify the Department in accordance with regulation 18(5) that they wish to make representations in respect of an appeal;

"local advertisement" means a notice in one or more newspapers circulating in the immediate locality of any relevant project;

"project" means the execution of construction works or of other installations or schemes or other intervention in the natural surroundings or landscape including those involving the extraction of mineral resources;

"proposer" means the person who proposes to carry out a project; and

"relevant project" shall be construed in accordance with regulation 3.

(**3**) S.I. 1991/1220 (N.I. 11)
(**4**) O.J. No. L175, 5.7.85
(**5**) O.J. No. L73, 14.3.97, p.5
(**6**) O.J. No.. L156 25.6.03

(2) In these Regulations, any reference to an enforcement notice shall be construed as including, as the context requires, a reference to a notice of variation under regulation 23(6)(a) or to an enforcement notice so varied.

(3) The Interpretation Act (Northern Ireland) 1954 shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly(**7**).

Interpretation of "relevant project"

3.—(1) For the purposes of these Regulations, a project is a relevant project if —

(a) it is a project of a type specified in paragraph (2);

(b) subject to paragraph (3) it is likely, by virtue of factors such as its nature, size and location, to have significant effects on the environment; and

(c) it is carried out by the Department or another Crown body or the carrying out of the project —

(i) does not involve development, or

(ii) involves development which is not mentioned in Schedule 1 to, or in column 1 of the table in Schedule 2 to the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999 (**8**); or

(iii) involves development for which planning permission is granted by Part 7 of Schedule 1 to the Planning (General Development) Order (Northern Ireland) 1993(**9**).

(2) The types of project referred to in paragraph (1)(a) are —

(a) afforestation;

(b) deforestation;

(c) forest road works;

(d) forest quarry works.

(3) For the purposes of paragraph (1)(b), and subject to regulation 7(3), a project shall be taken not to be likely to have significant effects on the environment if the area covered, or to be covered, by the project does not exceed any relevant threshold set out in Schedule 2.

Exemptions

4.—(1) In accordance with Article 2(3) of the Directive, the Department may direct that a particular project is exempted from the application of these Regulations.

(2) The Department shall only make a direction under paragraph (1) in an exceptional case and where it does so, it shall—

(a) consider whether in that case another form of assessment of the environmental effects of the proposed project in question would be appropriate; and

(b) make available to the public the information obtained under that other form of assessment, information relating to the making of the direction and the reasons for making it.

(3) Where the Department makes a direction under this regulation it shall by general and local advertisement briefly describe the project to which the direction relates, explain the effects of the direction and give reasons for making it.

(**7**) 1954 c. 33 (N.I.)
(**8**) S.R. 1999/73.
(**9**) S.R. 1993/278

(4) No direction shall be made under this regulation where it appears to the Department that the project would be likely to have significant effects on the environment in another EEA State.

PART II

FORESTRY PROJECTS GENERALLY

Restriction on relevant projects

5.—(1) This Part applies to any project (including any project carried out by a Crown body) other than one to which Part 3 applies.

(2) Subject to regulation 4 a person shall not carry out, on any land, work or operations relating to a relevant project unless—

(a) a consent has been granted for that project by the Department; and

(b) the project is carried out in accordance with the consent (including the conditions to which the consent is subject).

Application for an opinion whether a project is a relevant project

6.—(1) A proposer may apply in writing to the Department for its opinion whether a project is a relevant project.

(2) An application under paragraph (1) shall include or be accompanied by —

(a) a map or plan sufficient to identify the land that is the subject of the proposed project and the extent of the proposed project;

(b) a brief description of the nature, size and location of the proposed project and of its possible effects on the environment; and

(c) such further information or representations as the proposer may wish to provide or make.

(3) The Department shall, if it considers that it has not been provided with sufficient information to enable it to give an opinion under paragraph (1), notify the proposer in writing of the matters on which it requires further information and the proposer shall supply that further information to the Department within such period as the Department may reasonably require.

Opinion of the Department

7.—(1) Where a proposer applies to the Department under regulation 6, the Department shall give to him written notice of its opinion within —

(a) 28 days beginning with the date of its receipt of the application or, where it notifies the proposer under regulation 6(3) that it requires further information, the date of its receipt of that information; or

(b) such longer period as may be agreed in writing between the Department and the proposer.

(2) Subject to paragraph (3), in considering, for the purpose of forming its opinion, whether the project is likely to have significant effects on the environment the Department shall—

(a) take into account the selection criteria in Schedule 3; and

(b) consult with the consultation bodies.

(3) In a case where the project does not exceed any relevant threshold set out in Schedule 2, the Department shall form its opinion in accordance with regulation 3(3) except where, in its opinion, there are exceptional circumstances which, taking account of the selection criteria in Schedule 3, make it likely that the project will have significant effects on the environment.

(4) Where the opinion of the Department is that the project is a relevant project, the Department shall include in, or provide with, its opinion a written statement of its reasons for being of that opinion.

(5) The Department may, in the absence of an application under regulation 6, give its opinion whether or not a project is or would be a relevant project and where it gives an opinion under this paragraph—

(a) it shall give written notice of its opinion to any person who reasonably appears to it to be the proposer; and

(b) paragraphs (2), (3), (4), (6) and (7) shall apply as they do to an opinion given under paragraph (1).

(6) In paragraph (3), the reference to circumstances which are, in the opinion of the Department, exceptional shall be construed in accordance with paragraph 4 of Schedule 2.

(7) The Department shall by general and local advertisement —

(a) publish a copy of any opinion given pursuant to this regulation;

(b) publish copies of any relevant application under regulation 6(1) and a description of the documents which accompanied it;

(c) state that any person may make representations to the Department in writing in relation to the likely environmental effects of the project to which the application relates at an address specified in the notice within 28 days of the date of the publication of the notice in the Belfast Gazette; and

(d) describe what other information relating to the environmental effects of the proposed project is available and give details of where it can be obtained.

Effect of opinions

8.—(1) This paragraph applies to an opinion given under regulation 7 that a project is not or would not be a relevant project.

(2) An opinion to which paragraph (1) applies —

(a) shall have the effect of determining for the purpose of these Regulations that the project specified in the opinion (but only that project) is not or would not be a relevant project; but

(b) shall cease to have effect on the expiry of —

(i) the period five years beginning with the date on which the opinion is given; or

(ii) such shorter period as may be specified in the opinion, if the work relating to the project has not been completed within that period.

(3) This paragraph applies to an opinion under regulation 7 that a project is or would be a relevant project.

(4) An opinion to which paragraph 3 applies shall have the effect of determining for the purposes of these Regulations that the project specified in the opinion is or would be a relevant project.

Request as to the information to be included in an environmental statement

9.—(1) Before applying for consent in relation to a project, a proposer may request the Department to give its opinion as to the information to be contained in any environmental statement required for that project.

(2) Where a proposer requests an opinion under paragraph (1) before a determination has been made whether a project is or would be a relevant project, the Department shall deal with the request on the assumption that the project is a relevant project.