STATUTORY RULES OF NORTHERN IRELAND

2006 No. 215

PLANNING

The Planning (National Security Directions and Appointed Representatives) Rules (Northern Ireland) 2006

Made - - - -	*16th May 2006*
To be laid before Parliament	
Coming into operation	*10th June 2006*

The Lord Chancellor makes the following rules in exercise of the powers conferred by Article 123A (6) of the Planning (Northern Ireland) Order 1991(**1**):

Citation and commencement

1. These rules may be cited as the Planning (National Security Directions and Appointed Representatives) Rules (Northern Ireland) 2006 and shall come into operation on 10th June 2006.

Interpretation

2.—(1) In these rules—

"affected person" means the person who will be prevented from hearing or inspecting closed evidence at a public local inquiry or independent examination if a direction is given;

"appointed representative" means the person appointed under Article 123A (4) or (5) of the 1991 Order;

"by local advertisement" means—

(a) publication of the notice in a newspaper circulating in the area in which the land to which the request for a direction relates is situated; and

(b) publication of the notice on a website;

"closed evidence" means evidence of a description indicated in a direction;

"direction" means a direction by the Secretary of State under Article 123A(2) of the 1991 Order;

"document" includes a photograph, map or plan;

(**1**) S.I.1991.1220 (N.I.11) as amended by S.I.2003/430(N.I.8) and S.I.2006/1252 (N.I.7)

"electronic communication" means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa)—

(a) by means of a telecommunication system (within the meaning of the Telecommunications Act 1984 (c. 12)); or

(b) by other means but while in an electronic form;

"potentially closed evidence" means evidence in respect of which a request for a direction has been made;

"the parties" means—

(a) the person making the request for a direction; and

(b) the appointed representative;

"the 1991 Order" means the Planning (Northern Ireland) Order 1991; and

"written representations" includes supporting documents.

(2) In these rules and in relation to the use of electronic communications for any purpose of these rules which is capable of being effected electronically —

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

(b) references to notices, representations or other documents, or to copies of such documents, includes reference to such documents or copies of them in electronic form.

(3) Paragraphs (4) to (7) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these rules to give or send any statement, notice or other document to any other person ("the recipient").

(4) The requirement shall be taken to be fulfilled where the notice or other document transmitted by means of the 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.

(5) In paragraph (4), "legible in all material respects" means that the information contained in the notice or other 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.

(6) 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.

(7) A requirement in these rules that any document should be in writing is fulfilled where that document meets the criteria in paragraph (4).

Functions of an appointed representative

3.—(1) The first function of an appointed representative is to represent the interests of the affected person by—

(a) taking instructions from the affected person before receiving copies of potentially closed evidence;

(b) making written representations as to whether a direction should be given; and

(c) in respect of a hearing held in accordance with rule 9—

(i) dealing with preliminary matters;

(ii) making submissions; and

(iii) cross-examining witnesses.

(2) The second function of an appointed representative is to represent the interests of the affected person by—

(a) taking instructions from the affected person before receiving copies of closed evidence;

(b) dealing with preliminary matters in relation to closed evidence in respect of a public local inquiry or independent examination;

(c) making submissions or cross-examining witnesses, in relation to closed evidence, at an inquiry or independent examination; and

(d) attending site visits.

(3) The third function of an appointed representative is to ensure that the copies of the closed evidence or potentially closed evidence are returned to the person who supplied it as soon as practicable after—

(a) the Secretary of State has given notice under rule 13 that he does not intend to give a direction;

(b) an inquiry or independent examination, to which the closed evidence relates, has ended; or

(c) the Secretary of State has notified the appointed representative that no inquiry or independent examination, to which the closed evidence relates, will be held,

whichever is the later.

(4) For the purposes of any of his functions the appointed representative may discuss any matter relating to the closed evidence or potentially closed evidence with—

(a) the person who has supplied the closed or potentially closed evidence to the Secretary of State; or

(b) a person specified, or of any description specified, in the direction.

Acknowledgement of request for a direction

4. As soon as practicable after receiving a request for a direction the Secretary of State shall acknowledge receipt of it in writing.

Publicity

5.—(1) As soon as practicable after receiving a request for a direction it shall be publicised by the Secretary of State by giving notice by local advertisement and, if appropriate, by serving notice upon any owner or occupier adjoining the land to which the request for a direction relates.

(2) A notice given under paragraph (1) shall—

(a) state that a request for a direction has been made;

(b) state that written representations as to whether a direction should be given can be made to the Secretary of State at the address specified in the notice; and

(c) specify the date by which any such representations should be made to the Secretary of State (being a date not less than 2 weeks from the date when the notice is given).

Information to be sent to the parties

6.—(1) As soon as practicable after notice of the request for a direction has been given in accordance with rule 5, the Secretary of State shall—

(a) notify in writing the appointed representative of the date by which any written representations as to whether a direction should be given should be received by the