STATUTORY RULES OF NORTHERN IRELAND

2006 No. 90

AGRICULTURE

Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) Regulations (Northern Ireland) 2006

Made - - - -	*2nd March 2006*
Coming into operation	*17th April 2006*

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**) 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 upon it by the said section 2(2), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) Regulations (Northern Ireland) 2006 and shall come into operation on 17th April 2006.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to these Regulations as it applies to an Act of the Assembly.

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

"consent" means consent granted under regulation 12(1) of these Regulations;

"consultation bodies" means such authorities, bodies or persons mentioned in Schedule 1 as the Department considers appropriate;

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

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

"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;

"the EIA Directive" means Council Directive 85/337/EEC(**3**) on the assessment of the effects of certain public and private projects on the environment as amended by Council Directive 97/11 and Council Directive 2003/35;

"environmental statement" in relation to any project means a statement that—

(a) includes such of the information referred to in Part I of Schedule 3 as is reasonably required to assess the environmental effects of the project and which the applicant for consent for that project can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile, and

(b) includes at least the information referred to in Part II of Schedule 3.

"European site" means those sites described in paragraphs (*a*), (*b*), (*c*) and (*d*) of regulation 9(1) of the Habitats Regulations;

"the Habitats Directive" means Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora(**4**);

"the Habitats Regulations" means the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995(**5**);

"interested parties" means those persons who notify the Department in accordance with regulation 14(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 the project to which it relates;

"general advertisement" means publication of a notice—

(c) in the Belfast Gazette; and

(d) on the Website maintained by the Department.

"project" means—

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

(f) other interventions in the natural surroundings and landscape, involving the use of uncultivated land or semi-natural areas for intensive agricultural purposes;

"relevant land" means the land on which a project is to be carried out or, in relation to a project which has already been carried out, has been carried out;

"relevant project" means a project which the Department has decided (or is deemed to have decided) is likely to have significant effects on the environment;

"screening decision" means a decision taken by the Department under regulation 5(4) or which is has been deemed to have taken under regulation 5(7).

(3) Unless it is otherwise provided, expressions used both in these Regulations and the EIA Directive or in the Habitats Directive shall have the same meaning in these Regulations as they have in that Directive.

(4) All applications, notifications, representations, requests, approvals and agreements to which these Regulations apply shall be made in writing.

(**3**) O.J. No. L175, 5.7.85, p.40, as last amended by Council Directive 97/11/EC, O.J. No. L73, 14.3.97, p5-15 and Council Directive 2003/35/EC, O.J. No. L156, 25.06.03, p17-25
(**4**) O.J. No. L206, 22/07/1992, p.7, as last amended by Council Directive 97/62/EC, O.J. No. L305, 8.11.97, p.42
(**5**) S.R. 1995 No.380

(5) "Writing" for the purpose of paragraph (4) shall include an electronic communication within the meaning of the Electronic Communications Act (Northern Ireland) 2001(**6**) provided that notifications required to be made by the Department to any person shall only be made by an electronic communication if the intended recipient has himself used the same form of electronic communication in communicating with the Department pursuant to any provision of these Regulations or has otherwise represented that the same form of electronic communication is a means by which persons can communicate with him.

Application of the Regulations

3.—(1) These Regulations apply to any project

(a) in respect of which an application for consent has been made before these Regulations came into operation; or

(b) which is not exempt under paragraph (2) or (3).

(2) A project is exempt if it:

(a) is a project described in regulation 3(2) of the Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2005(**7**);

(b) constitutes development to which the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999(**8**) apply; or

(c) constitutes the carrying out of drainage works by the Department within the meaning of the Drainage (Environmental Impact Assessment) Regulations (Northern Ireland) 2005(**9**).

(3) A project is exempt under this paragraph to the extent that the Department directs that it shall be exempt from these Regulations.

(4) The Department shall only make a direction under paragraph (3) 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;

(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.

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

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

Requirement for screening decision

4. A person shall not begin or carry out a project without first obtaining a screening decision.

Screening procedure

5.—(1) An application for a screening decision in relation to any project shall be accompanied by—

(**6**) 2001 c. 9 (N.I.1)
(**7**) to be inserted (updated)
(**8**) S.R. 1999, No.73
(**9**) to be inserted (updated)

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

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

(c) such other information or representations as the applicant may wish to provide or make.

(2) The Department shall notify the applicant of the date on which the application was received by it.

(3) If the Department considers that it does not have sufficient information to make the screening decision it may request that the applicant supply any further information that it requires and the applicant shall supply that further information within such time as the Department may reasonably require.

(4) The Department shall decide in accordance with the selection criteria set out in Schedule 2 and paragraph (5) whether a project is likely to have a significant effect on the environment within thirty-five days of the date notified to the applicant in accordance with paragraph (2) or such longer period as may be agreed with the applicant and before reaching such a decision may consult with such of the consultation bodies as it thinks fit.

(5) A project which the Department decides is likely to have a significant effect on a European site (either alone or in combination with other projects), and which is not directly connected with or necessary to the management of the site, shall be treated for the purposes of these Regulations as likely to have a significant effect on the environment.

(6) The Department shall notify the screening decision relating to any project, together with a statement giving the full reasons for the decision, to the applicant, any other person likely in its opinion to be affected by the project and each of the consultation bodies and shall by local and general advertisement —

(a) publish a copy of the decision;

(b) publish copies of any relevant application under paragraph (1) and 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 publication of the notice in the Belfast Gazette; and

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

(7) If an applicant who has not been notified of a screening decision within the period specified in paragraph (4) notifies the Department that he intends to treat such failure to notify him as a decision that the project is a relevant project, the Department shall be deemed to have decided that the project is a relevant project on the date that it is so notified by the applicant.

(8) If at any time after the Department has decided (or is deemed to have decided) that a project is a relevant project under this regulation, it receives additional environmental information or representations which cause it to decide that the project is not a relevant project, it shall vary its opinion accordingly and shall—

(a) notify each person to whom notice had already been given under paragraph (6) and provide that person with a statement giving the full reasons for the variation; and

(b) shall by local and general advertisement publish a notice of the variation.

(9) If at any time after the Department has decided that a project is not a relevant project under this regulation, it receives additional environmental information or representations which cause it to decide that the project is a relevant project, it shall vary its opinion accordingly and shall—

(a) notify each person to whom notice had already been given under paragraph (6) and provide them with a statement giving the full reasons for the decision; and

(b) shall by local and general advertisement publish a notice of the decision.

(10) This paragraph applies to an opinion given under this regulation (including an opinion as varied under paragraph (8) or (9)) that a project is not or would not be a relevant project.

(11) An opinion to which paragraph (10) 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 three 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.

(12) This paragraph applies to an opinion under this regulation (including an opinion as varied under paragraph (8) or (9)) that a project is or would be a relevant project.

(13) An opinion to which paragraph (12) 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.

Requirement for consent

6. A person shall not carry out a relevant project unless—

(a) a consent has been granted for the 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).

Scoping opinion

7.—(1) After obtaining a screening decision and before applying for consent the applicant may request the Department to give its opinion as to the information to be provided in the environmental statement ("a scoping opinion").

(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 applicant 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 applicant in writing of the matters on which it requires further information and the applicant shall supply that further information to the Department within such period as the Department reasonably may require.

(4) The Department shall give to the applicant written notice of its opinion under paragraph (1) within—

(a) 5 weeks beginning with the date of its receipt of the application or, where it notifies the applicant under paragraph (4) 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 applicant.