STATUTORY RULES OF NORTHERN IRELAND

2005 No. 353

PLANNING

The Planning (Modification and Discharge of Planning Agreements) Regulations (Northern Ireland) 2005

Made - - - -	*27th July 2005*
Coming into operation	*31st August 2005*

The Department of the Environment, in exercise of the powers conferred by Articles 40A(8) and (10), 40B(3) and (4), and 129(1) of the Planning (Northern Ireland) Order 1991(**1**) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Planning (Modification and Discharge of Planning Agreements) Regulations (Northern Ireland) 2005 and shall come into operation on 31st August 2005.

(2) In these Regulations "the 1991 Order" means the Planning (Northern Ireland) Order 1991.

Applications for the modification and discharge of planning agreements

2.—(1) An application for the modification or discharge of a planning agreement shall be made on a form issued by the Department, which shall require the following information—

(a) the name and address of the applicant;

(b) the address or location of the land to which the application relates and the nature of the applicant's estate in that land;

(c) sufficient information to enable the Department to identify the planning agreement which the applicant wishes to have modified or discharged;

(d) the applicant's reasons for applying for the modification or discharge of that agreement; and

(e) such other information as the Department considers necessary to enable it to determine the application.

(2) An application for the modification or discharge of a planning agreement shall include—

(a) the information required by the application form;

(**1**) S.I.1991/1220 (N.I. 11) as amended by S.I. 2003/430 (N.I. 8)

(b) a map identifying the land to which the agreement relates; and

(c) such other information as the applicant considers relevant to the determination of the application.

Notification of applications by applicant

3.—(1) An applicant for the modification or discharge of a planning agreement shall give notice of the application to any person (other than the applicant) against whom, on the day 21 days before the date of the application, the planning agreement is enforceable and whose name and address is known to the applicant.

(2) In order to comply with paragraph (1), the applicant shall take reasonable steps to ascertain the name and address of every such person.

(3) Where the names and addresses of all such persons are not known to the applicant after he has taken reasonable steps to ascertain that information, he shall, during the 21 day period immediately preceding the application, publish notice of the application in at least one newspaper circulating in the locality in which the land to which the application relates is situated.

(4) The notice required to be served or published by this regulation shall be in the form set out in Part 1 of the Schedule and shall invite representations on the application to be made to the Department within 21 days of the date on which the notice is served or published, as the case may be.

(5) An application for the modification or discharge of a planning agreement shall be accompanied by a certificate, in the form set out in Part 2 of the Schedule, certifying that the requirements in the preceding provisions of this regulation have been satisfied.

Publicity for applications

4.—(1) Where an application for the modification or discharge of a planning agreement is made to the Department, the Department shall publicise the application by—

(a) publishing notice of the application in at least one newspaper circulating in the locality in which the land to which the application relates is situated; and

(b) where it maintains a website for the purpose of advertisement of applications, by publication of the notice on the website.

(2) The notice published in accordance with paragraph (1) shall invite representations on the application to be made to the Department within 4 weeks of the date on which the notice is first published in a newspaper in pursuance of sub-paragraph (a) or is first published on the website, whichever is the later.

(3) The Department shall make a copy of the application and the relevant part of the instrument by which the planning agreement was entered into available for inspection during the period allowed for making representations under paragraph (2).

Determination of applications by Department

5.—(1) The Department shall not determine an application for the modification or discharge of a planning agreement before the expiry of the period provided for making representations in accordance with regulation 4(2).

(2) Subject to paragraph (1) the Department shall give the applicant written notice of its determination within—

(a) 16 weeks from the date on which the application is received; or

(b) except where the applicant has already given notice of appeal to the Planning Appeals Commission, such extended period as may be agreed upon in writing between the applicant and the Department.

(3) Where the Department determines that a planning agreement shall continue to have effect without modification, notice of that determination shall state the full reasons for the determination and include a statement to the effect that the applicant may appeal to the Planning Appeals Commission against the determination within 6 months of the date of the notice.

Appeals to the Planning Appeals Commission

6.—(1) An appeal under Article 40B of the 1991 Order shall be made within 6 months of—

(a) the date of the notice of the determination giving rise to the appeal; or

(b) in the case of an appeal under Article 40B(1)(a) (non-determination), the expiry of the period specified in regulation 5(2).

Sealed with the Official Seal of the Department of the Environment on 27th July 2005.

Marianne Fleming
A senior officer of the
Department of the Environment