STATUTORY RULES OF NORTHERN IRELAND

# 2001 No. 435

# AGRICULTURE

## Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) Regulations (Northern Ireland) 2001

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| *Made - - - -* | *19th December 2001* |
| *Coming into operation* | *11th February 2002* |

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) 2001 and shall come into operation on 11th February 2002.

### Interpretation

**2.**—(1) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to these Regulations as it applies to an Act of the Northern Ireland 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" means any additional information required as part of the environmental statement in accordance with regulation 10(1);

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

"consultation bodies" in relation to any project means any public authority, statutory body or other organisation which, in the opinion of the Department, has any interest in or holds any information which might be relevant to the project;

(**1**) S.I.1988/785
(**2**) 1972 c. 68
(**3**) 1954 c. 33 (N.I.)

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

"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 on the assessment of the effects of certain public and private projects on the environment(**4**);

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

(a) includes such of the information referred to in Part I of Schedule 2 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 2.

"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(**5**);

"the Habitats Regulations" means the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995(**6**)

"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;

"project" means—

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

(b) 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);

(2) 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.

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

(4) "Writing" for the purpose of paragraph (4) shall include an electronic communication within the meaning of the Electronic Communications Act (Northern Ireland) 2001(**7**) 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.

(**4**) 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, p. 5
(**5**) 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
(**6**) S.R. 1995 No. 380
(**7**) 2001 c. 9 (N.I.)

**Application of the Regulations**

**3.**—(1) These Regulations apply to any project 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) 2000(**8**);

(b) constitutes development to which the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999(**9**)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) 2001(**10**).

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

(4) 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) above 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 shall be accompanied by—

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

(b) a brief description of the nature, extent 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 additional information that it requires.

(4) The Department shall decide in accordance with the selection criteria set out in Schedule 1 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—

(a) notify the screening decision together with a statement giving the full reasons for the decision to the applicant;

(**8**) S.R. 2000 No. 84
(**9**) S.R. 1999 No. 73
(**10**) S.R. 2001 No. 394

(b) enter the screening decision in a register to which the public shall have access at all reasonable times; and

(c) notify the screening decision to such of the consultation bodies as would, in its opinion, wish to be informed of it.

(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 that a project is a relevant project under this regulation, it shall receive further information or representations which cause it to decide that the project is not a relevant project, it shall notify that decision and provide a statement giving the full reasons for the decision to the applicant and to the consultation bodies notified in accordance with paragraph 6(*c*) and shall enter the decision in the register referred to in paragraph (6)(*b*).

(9) If a project to which a screening decision relates has not been commenced before the expiry of three years from the date on which that decision was notified to the applicant or of the date it was deemed to have been decided in accordance with paragraph (7), or of such longer period as may have been agreed by the Department, that screening decision shall cease to have effect.

**Requirement for consent**

**6.** A person shall not begin or carry out a relevant project without first obtaining consent from the Department.

**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) If a scoping opinion is requested the Department shall consult the applicant and such of the consultation bodies as it thinks fit before giving its opinion.

(3) If the Department considers it has not been supplied with sufficient information to give a scoping opinion it shall notify the applicant of the matters upon which it requires additional information within twenty-eight days from the date of receipt of the request for the opinion.

(4) The Department shall provide the applicant with a scoping opinion within five weeks from the date of receipt of the request for the opinion or from the date of receipt by it of any additional information requested in accordance with paragraph (3).

**Provision of information**

**8.**—(1) Any consultation body which receives a request for information from a person who is intending to apply for consent for a project shall determine whether they have in their possession any information which they consider relevant to the preparation of an environmental statement for that project and, if they have, they shall, subject to paragraphs (3) and (4), make that information available to the applicant within twenty-eight days from the date of receipt of the request.

(2) A reasonable charge may be made by any body providing information under paragraph (1) that reflects the cost of making the relevant information available.

(3) Paragraph (1) shall not require disclosure of information which is either capable of being treated as confidential or required to be so treated under regulation 5 of the Environmental Information Regulations (Northern Ireland) 1993(**11**).

**The consent application**

**9.**—(1) An application for consent for a project (which shall include the environmental statement) shall be made to the Department.

(2) The applicant shall provide to the Department such number of copies of the application as it may reasonably require.

(3) After the Department has received an application for consent for a project in accordance with paragraph (1) and (2) it shall—

(a) send a copy of the application to such of the consultation bodies as it thinks fit and inform them that they may make representations within six weeks from the date of receipt of that copy; and

(b) for the purpose of ensuring that members of the public concerned are given an opportunity to make representations before the application is determined, publish in a newspaper circulating in the locality of the project a notice:—

(i) announcing that the application has been made;

(ii) specifying an address at which copies of the application may be inspected free of charge and where anyone who wishes to obtain copies of the application may do so (for which a reasonable charge may be made) at all reasonable hours within six weeks beginning from the date of publication of the notice; and

(iii) stating that any person wishing to make any representations in relation to the likely environmental effects of the project shall make them in writing to the Department at the address specified at paragraph (*b*) within six weeks from the publication of the notice.

**Additional information**

**10.**—(1) If, after having complied with regulation 9(3), the Department reaches the opinion that any purported environmental statement should contain additional information in order to be a valid environmental statement, it shall notify the applicant of the information (and the number of copies) required and the applicant shall provide the Department with the additional information.

(2) The Department shall send a copy of the additional information sent to it under paragraph (1) to such of the consultation bodies as it shall think fit and to any Member State which has indicated that it wishes to make representations in accordance with regulation 11(1) and inform them that they may make representations within twenty-eight days beginning from the date the information was sent.

(3) The Department shall publish in a newspaper circulating in the locality of any project to which any additional information sent to it under paragraph (1) relates a notice:—

(a) referring to the application for consent for that project and the date on which that application was made;

(b) announcing that the additional environmental information is available;

(c) specifying an address at which copies of the additional environmental information may be inspected free of charge and where anyone who wishes to obtain copies of the additional

(**11**) S.R. 1993 No. 45 as amended by S.R. 1998 No. 238