STATUTORY RULES OF NORTHERN IRELAND

2000 No. 84

FORESTRY

Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2000

Made - - - - *14th March 2000*

Coming into operation *1st May 2000*

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 on it by the said section 2(2) and of all other powers enabling it in that behalf, and having taken into account the selection criteria in Annex III to Council Directive 85/337/EEC(**3**) as amended by Council Directive 97/11/EC(**4**) hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2000 and shall come into operation on 1st May 2000.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

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

"deforestation" means deforestation for the purposes of conversion to another type of land use (which terms have 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(**5**);

(**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.R. 1994/2795 (N.I. 15)
(**3**) O.J. No. L175, 5.7.85, p. 40
(**4**) O.J. No. L73, 14.3.97, p. 5
(**5**) S.I. 1991/1220 (N.I. 11)

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

"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 provided in accordance with these Regulations in relation to an application for consent or any reconsideration under regulation 17 relating to the likely environmental effects of the project which is the subject of the application or, as the case may be, reconsideration or review;

"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;

"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;

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

(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 19(6)(*a*) or to an enforcement notice so varied.

(3) Any reference in these Regulations (other than regulation 21) to consent is a reference to the consent of the Department required by regulation 4, and—

(a) (where the context permits) includes consent by the Department on a reconsideration under regulation 17; and

(b) in regulations 4 and 19 to 22 includes (in accordance with regulation 24) consent granted under the Environmental Assessment (Forestry) Regulations (Northern Ireland) 1998(**6**).

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

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 or location, to have significant effects on the environment; and

(**6**) S.R. 1998 No. 437
(**7**) 1953 c. 33 (N.I.)

(c) 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 Part I to the Planning (General Development) Order (Northern Ireland) 1993(**9**).

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

(a) afforestation;

(b) deforestation;

(c) forest road works;

(d) forest quarry works.

(3) For the purposes of paragraph (1)(*b*), and subject to regulations 6(3) and 7(6), 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.

Restriction on relevant projects

4.—(1) Subject to paragraph (2) no person shall carry out, on any land, work or operations relating to a relevant project unless—

(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).

(2) 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.

(3) A direction under paragraph (2) shall be in writing and shall be accompanied by a statement of the Department's reasons for making it.

(4) No direction shall be made under paragraph (2) where it appears to the Department that the project would be likely to have significant effects on the environment in another EEA State.

Application for an opinion whether a project is a relevant project

5.—(1) The 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 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

(**8**) S.R. 1999/73
(**9**) S.R. 1993/278

which it requires further information and the proposer shall supply that further information to the Department within such period as the Department reasonably may require.

Opinion of the Department

6.—(1) Where the proposer applies to the Department under regulation 5, the Department shall give to the proposer 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 5(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 take into account the selection criteria in Schedule 3.

(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, 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) and (6) of this regulation shall apply as they do to an opinion given under regulation 5(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.

Request to the Department to reconsider its opinion

7.—(1) The proposer may apply in writing to the Department for a reconsideration of its opinion whether a project is a relevant project where—

(a) the Department gives notice of its opinion under regulation 6(1) or regulation 6(5) that the project is or would be a relevant project; or

(b) the Department fails to give notice of its opinion within the period of time required by regulation 6(1).

(2) An application under paragraph (1) shall be accompanied by, or by copies of—

(a) any application by the proposer to the Department under regulation 5(1) and any documents supplied to the Department by the proposer in connection with that application; and

(b) in a case falling within paragraph (1)(*a*), the opinion of the Department and any written statement of the reasons which it provided with it,

and may include such further information or representations as the proposer may wish to provide or make.

(3) Where the Department considers that the documents supplied to it under paragraph (2) do not provide sufficient information to enable it to reconsider its opinion, it shall notify the proposer in writing of the matters on which further information is required.

(4) The Department shall reconsider the opinion to which it relates within 28 days (or such longer period as it may reasonably require) beginning with—

(a) the date of receipt of the application under paragraph (1); or

(b) where it required or sought further information under paragraph (3), the date of receipt by the Department of that information.

(5) Subject to paragraph (6), in considering whether the project is likely to have significant effects on the environment, the Department shall take into account the selection criteria in Schedule 3.

(6) In a case where the project does not exceed any relevant threshold set out in Schedule 2, the Department shall make its decision 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.

(7) After reconsidering its opinion in pursuance of paragraph (4) the Department may—

(a) affirm that opinion; or

(b) substitute therefor such other opinion as seems to it to be appropriate in the circumstances.

(8) The Department shall provide an applicant under paragraph (1) with a written statement of the decision it has reached in relation to his application under paragraph (6) including, where the decision is that the project is or would be a relevant project, the reasons for that decision.

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

Effect of opinions

8.—(1) This paragraph applies to an opinion given under regulation 6 or reconsidered 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 (without prejudice to the availability of a further opinion under regulation 6 or 7) on the expiry of—

(i) the period five years beginning with the date on which the opinion is given or reconsidered; 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 6 or 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 to carry out work in relation to a project, a proposer may request the Department to give its opinion as to the information to be contained in the environmental statement required for that project.