STATUTORY RULES OF NORTHERN IRELAND

# 1998 No. 437

# FORESTRY

## Environmental Assessment (Forestry) Regulations (Northern Ireland) 1998

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| *Made - - - -* | *8th December 1998* |
| *Coming into operation* | *1st February 1999* |

The Department of Agriculture, 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, hereby make the following Regulations:

### Citation and commencement

**1.** These Regulations may be cited as the Environmental Assessment (Forestry) Regulations (Northern Ireland) 1998 and shall come into operation on 1st February 1999.

### Interpretation

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

"afforestation" has the same meaning as in Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment(**3**);

"the Department" means the Department of Agriculture for Northern Ireland;

"environmental information" means information in the environmental statement and any other information provided in accordance with these Regulations in relation to

(a) an application for consent;

(b) any reconsideration under regulation 13; or

(c) any request for a review under regulation 16,

relating to the likely environmental effects of the subject matter of the application or, as the case may be, reconsideration or review;

(**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. L174, 5.7.85, p. 40

"environmental statement" means a statement such as is described in the Schedule;

"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" in relation to any project means the person who proposes to carry out the project;

"relevant project" means a project which is likely to have a significant effect on the environment and is—

(a) initial afforestation where this may lead to adverse ecological changes, or

(b) the construction of a forest road where such construction is permitted development by virtue of sub-paragraph (b) of Class A of Part 7 of Schedule 1 to the Planning (General Development) Order (Northern Ireland) 1993(**4**), or,

(c) operations to obtain the materials required for the formation, alteration or maintenance of private ways where such operations are permitted development by virtue of sub-paragraph (*c*) of Class A of Part 7 of Schedule 1 to the Planning (General Development) Order (Northern Ireland) 1993.

(2) In these Regulations, any reference to an enforcement notice shall be construed as an enforcement notice served by the Department under regulation 15(1) and as including, as the context requires, a reference to a notice of variation under regulation 15(6)(*a*) or to an enforcement notice as so varied.

(3) Any reference in these Regulations to a consent shall be construed as a reference to the consent of the Department required under regulation 3.

(4) The Interpretation Act (Northern Ireland) 1954(**5**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

**Restriction on relevant project**

**3.** A person shall not carry out work in relation to a relevant project unless the Department has given consent for that project and the project is carried out in accordance with consent, (including the conditions to which the consent is subject).

**Application for an opinion whether a project is a relevant project**

**4.**—(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 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 or such other period as may be agreed in writing between the Department and the proposer.

(**4**) S.R. 1993/278
(**5**) 1954 c. 33 (N.I.)

**Opinion of the Department**

**5.**—(1) Where the proposer applies to the Department under regulation 4, 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 4(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) In forming its opinion the Department shall have regard in particular to the nature, size and location of the proposed project.

(3) 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.

(4) The Department may of its own motion 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) and (3) of this regulation shall apply as they do to an opinion given in relation to an application under regulation 4(1).

**Request to the Department to reconsider its opinion**

**6.**—(1) Where the Department gives notice of its opinion in relation to any application under regulation 4(1) or in accordance with regulation 5(4) and the opinion is that a project is or would be a relevant project, the proposer may request the Department in writing to reconsider its opinion.

(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 4(1) and any document supplied to the Department by the proposer in connection with that application; and

(b) 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 in writing 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 it with sufficient information to enable it to reconsider its opinion, it shall notify the proposer in writing of the matters on which it requires further information and the proposer shall forthwith supply that information if it is available to him.

(4) Upon receipt of an application under paragraph (1), the Department shall reconsider the opinion to which it relates and within 28 days of—

(a) the date of receipt of the application; or

(b) where it notifies the applicant under paragraph (3) that it requires further information, the date of receipt by the Department of that information,

it shall notify the applicant of its decision in relation thereto.

(5) In reconsidering its opinion in pursuance of paragraph (4), the Department shall in particular have regard to the nature, size and location of the project to which the opinion relates.

(6) 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.

(7) 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 it substitutes for an earlier opinion a new opinion that the project to which the application relates is or would be a relevant project, its reasons for so deciding.

**Applications for consent**

**7.**—(1) An application for consent for a relevant project shall be made in writing to the Department and shall be accompanied by—

(a) a map or plan sufficient to identify the land on which the relevant project would be carried out and the extent of any planting, regeneration, construction, works or operations;

(b) a description of the nature of the relevant project;

(c) an environmental statement in respect of the relevant project; and

(d) a copy of the notice to be published in accordance with regulation 9(1).

(2) An applicant for consent shall supply to the Department such number of copies of the application and the documents accompanying it as the Department reasonably may require.

**Provision of further information**

**8.** Where in the opinion of the Department—

(a) further information is reasonably required for its proper consideration of the likely environmental effects of the relevant project to which an application for consent relates; and

(b) the applicant could (having regard in particular to current knowledge and methods of assessment) provide such information,

the Department shall notify the applicant in writing of the matter on which it requires further information and the applicant shall provide that further information within such period as the Department may require.

**Publicity**

**9.**—(1) A person who makes an application for consent in relation to a relevant project or who provides further information in relation to that project under regulation 8 shall publish a notice in accordance with paragraph (2) in such newspapers (not being less than 2) as the Department reasonably may require for the purposes of ensuring—

(a) the application for consent or, as the case may be, the information provided under regulation 8, is made available to the public; and

(b) the public concerned is given an opportunity to express an opinion in relation to the application before the application for consent is determined.

(2) A notice required by paragraph (1) shall—

(a) state that the application for consent has been made or, as the case may be, that the further information has been furnished to the Department under regulation 8;

(b) specify an office of the Department or other place nominated by it at which copies of the application or the further information may be inspected free of charge at all reasonable hours within 28 days beginning with the date of publication of the notice;

(c) specify an address at which copies of the application or the further information may be obtained from the applicant and, if a charge is to be made for a copy, the amount (not exceeding a reasonable charge for copying) of the charge; and

(d) state that any person wishing to make representations regarding the application or the further information should make them in writing to the Department at a specified address nominated by it, within 28 days beginning with the date of publication of the notice.

(3) On receipt of an application for consent, or of further information under regulation 8, the Department shall provide copies of the application or, as the case may be, the further information, together with a notice stating that any representations regarding the application or the further information should be made in writing to the Department within 28 days beginning with the date of the notice, to any local authority or other public authority which appears to the Department to have an interest in the application.

(4) In this regulation, reference to an application shall include a reference to the documents accompanying that application.

**Information from another Member State**

**10.** Where it appears to the Department that a relevant project in relation to which it has received an application for consent would be likely to have a significant effect on the environment of another Member State or where another Member State likely to be significantly affected requests, the Department shall forward a copy of the environmental statement relating to the project to the relevant Member State.

**Determination of applications**

**11.**—(1) Where an application is made to the Department for consent in relation to a relevant project, it may, subject to the following provisions of this regulation—

(a) grant consent for that project, either subject only to the conditions required by regulation 14 or also subject to such further conditions as it sees fit, or

(b) refuse consent.

(2) The Department shall not determine an application for consent until after the expiry of the periods referred to in regulation 9.

(3) In determining an application for consent in relation to a relevant project, the Department shall take into consideration the environmental information relating to that project, any representations received by it in relation to the application and any other material consideration.

**Notification of decisions**

**12.** Where an application for consent has been determined by the Department it shall—

(a) give notice in writing of its decision to the applicant and any person from whom it received representations in relation to the application, stating that it has taken into consideration the environmental information relating to the application and giving the reasons and considerations on which the decision was based; and

(b) publish a notice of its decision in the newspapers in which notice of the application was published in accordance with regulation 9(1).

**Requests to the Department to reconsider its decision**

**13.**—(1) Where the Department has—

(a) refused an application for consent;

(b) granted consent subject to conditions in addition to those required by regulation 14; or