1991 No. 376

DRAINAGE

Drainage (Environmental Assessment) Regulations (Northern Ireland) 1991

Made . . . . . 15th August 1991

Coming into operation . . 23rd September 1991

The Department of Agriculture, being a department designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) 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) and of every other power enabling it in that behalf, hereby makes the following Regulations:

PART I

INTRODUCTORY AND APPLICATION

Citation and commencement

1. These Regulations may be cited as the Drainage (Environmental Assessment) Regulations (Northern Ireland) 1991 and shall come into operation on 23rd September 1991.

Interpretation

2.—(1) In these Regulations —

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

''drainage works'' means any works for the purpose of draining land or of preventing or mitigating flooding or erosion to which land is subject, and includes the construction, cleansing, scouring, deepening, widening, straightening or diverting of any watercourse or outfall for water, the construction, installation or alteration of any pump, pump machinery or pump-house, the removal of any obstruction, natural or artificial, in any watercourse, and the construction, repair, raising, lowering, widening, straightening, altering or removal of any embankment, dam, barrier, sluice, weir, wall, culvert or groyne or of any structure or erection for the purposes of defence against water; and

(**a**) S.I. 1988/785.
(**b**) 1972 c. 68.

"the Drainage Order" means the Drainage (Northern Ireland) Order 1973(**a**).

(2) The definition of "environmental statement" in Article 2(2) of the Drainage Order shall apply for the purposes of Part II of these Regulations as it applies for the purposes of Part III of that Order as if for references to works specified in a drainage scheme in Schedule 2A to the Drainage Order there were substituted references to drainage works.

(3) In these Regulations "the Drainage Council", "drainage scheme" and "watercourse" have the meanings respectively assigned to them by Article 2(2) of the Drainage Order.

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

Application

3.—(1) Part II shall not apply in relation to any drainage works—

(*a*) commenced before the coming into operation of these Regulations;

(*b*) carried out in pursuance of any scheme referred to in Article 30(1) of the Drainage Order which was prepared before the coming into operation of these Regulations;

(*c*) carried out in pursuance of an agreement or arrangement with a person outside Northern Ireland which was entered into by the Department under Article 30(2) of that Order for the purposes of such a scheme before the coming into operation of these Regulations; or

(*d*) carried out under a drainage scheme, whether prepared before or after the coming into operation of these Regulations, which was confirmed under Article 13 of the Drainage Order or treated by virtue of Articles 8(1) or 9(1) of that Order as if they had been so carried out.

(2) Part III shall not apply in relation to any drainage scheme prepared before the coming into operation of these Regulations.

PART II

DRAINAGE WORKS GENERALLY

Requirement for environmental statement

4.—(1) The Department shall not —

(*a*) undertake any drainage works on any land;

(*b*) co-operate, in pursuance of Article 30(1) of the Drainage Order, with any person outside Northern Ireland in preparing or carrying out schemes for such works on any land; or

(*c*) enter into or carry into effect, in pursuance of Article 30(2) of the Drainage Order, an agreement or arrangement with such a person for the purposes of such a scheme,

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(**a**) S.I. 1973/69 (N.I. 1).
(**b**) 1954 c. 33 (N.I.).

unless it has first completed the procedure prescribed by this Part.

(2) In paragraph (1)(*b*) "land" includes land situate partly inside and partly outside Northern Ireland.

Preparation of an environmental statement

5.—(1) The Department shall consider whether any proposed drainage works, by reason inter alia of their nature, size or location, are likely to have significant effects on the environment and ought, therefore, to be made subject to an environmental statement, and shall then by notice in the Belfast Gazette and at least two local newspapers—

(*a*) announce that it is proposed that the works in question will be carried out;

(*b*) describe briefly their nature, size and location;

(*c*) state whether or not the Department proposes to make the works subject to an environmental statement; and

(*d*) where it states it does not propose to make the works subject to such a statement, give notice that any person who wishes to do so may make representations to the Department in writing in relation to the likely environmental effects with regard to the proposed works at the address specified in the notice within 28 days of the date of the notice in the Belfast Gazette.

(2) Where the Department considers that any drainage works ought to be made subject to an environmental statement and has stated in pursuance of paragraph (1)(*c*) that it proposes so to make them, it shall proceed to prepare such a statement.

(3) The Department shall consider any representations made in accordance with paragraph (1)(*d*) and if, having done so, it decides that any drainage works ought to be made subject to an environmental statement, it shall so inform the persons who made those representations and proceed to prepare such a statement.

(4) Where the Department has stated in accordance with paragraph (1)(*c*) that it does not propose to make any drainage works subject to an environmental statement and where either—

(*a*) no representations made in accordance with paragraph (1)(*d*) are received in relation to those works within the time limit therein specified; or

(*b*) such representations are so received but the Department, after considering them, decides that the works ought not to be made subject to an environmental statement,

it may proceed to undertake those works or do anything else referred to in regulation 4(1) in relation to them, without preparing such a statement.

Publicity for an environmental statement

6. Where the Department has prepared an environmental statement in relation to any drainage works, it shall—

(*a*) by notice in the Belfast Gazette and at least two local newspapers announce the preparation of the statement and state that any person wishing to make representations regarding the likely environmental effects of the works to which the statement relates should make them in writing to the Department at the address specified in the notice within a period so specified, being a period not less than 28 days from the date of the notice in the Belfast Gazette;

(*b*) make available for inspection at all reasonable times at an office of the Department or at some other convenient place (such times and place to be stated in a notice referred to in paragraph (*a*)) for a period of at least 28 days following the date of the notice in the Belfast Gazette, the details of the proposed drainage works and the environmental statement relating thereto, and ensure that a reasonable number of copies of the statement are made available;

(*c*) state in the notice referred to in paragraph (*a*) the address at which copies of the environmental statement may be obtained and, if a charge is to be made for a copy thereof under regulation 8, the amount of the charge; and

(*d*) at the same time as the notice referred to in paragraph (*a*) is published, supply copies of the statement to—

(i) the Drainage Council;

(ii) the appropriate district council;

(iii) any other public authority, statutory or other body or organisation which appears to it to have an interest in the matter; and

(iv) on request, to any other interested persons.

Consultation with other bodies

7.—(1) Where in accordance with regulation 6(*d*)(i) to (iii) the Department sends to any body or organisation a copy of an environmental statement it shall consult with that body or organisation about the statement and the likely environmental effects of the drainage works to which it relates.

(2) Where under paragraph (l) the Department consults any body or organisation about an environmental statement, it shall give that body or organisation not less than 28 days notice that it proposes to consider the statement and shall not do so until after the expiration of such period of notice.

Charges

8. A reasonable charge reflecting printing and distribution costs may be made to any person for—

(*a*) a copy of the whole or part of an environmental statement supplied to that person in accordance with regulation 6(*d*)(iv); or

(*b*) any copy, in excess of one, of the whole or part of an environmental statement supplied to that person in accordance with regulation 6(*d*)(i) to (iii); or

(c)

(d)

Provision of information

9.—(1) Subject to paragraph (2), where the Department proposes to prepare an environmental statement as required by this Part it may enter into consultations with any body or organisation to determine whether that body or organisation has in its possession any information which the Department considers relevant to the preparation of the statement and that body or organisation shall make any such information which it has available to the Department.

(2) Nothing in paragraph (1) shall require the disclosure of confidential information.

(3) A reasonable charge reflecting the cost of making information available to the Department in accordance with paragraph (1) may be made to the Department by any body or organisation supplying it.

Restrictions on carrying out of drainage works etc

10. Where the Department has prepared an environmental statement in relation to any drainage works it shall not proceed to undertake those works or to do anything else referred to in regulation 4(1) in relation to those works unless it has first taken into consideration—

(*a*) the statement;

(*b*) any information relevant to it and obtained in pursuance of regulation 9(1);

(*c*) the drainage works; and

(*d*) any representations or comments made by any person, body or organisation in accordance with regulations 5(1)(*d*), 6 or 7, in relation to the likely environmental effects of the works and which are received within the time limits therein respectively specified.

PART III

DRAINAGE SCHEMES

Amendment of Drainage Order

11. The Drainage Order shall be amended as provided in regulations 12 to 15.

12. In Article 2(2) after the definition of ''embankment'' there shall be inserted the following definition—

'' ''environmental statement'' has the meaning assigned to it by Schedule 2A;''

13. For Articles 12 and 13 there shall be substituted—

''*Publicity for drainage schemes*

12.—(1) Where the Department has prepared a drainage scheme it shall—