1990 No. 181

EUROPEAN COMMUNITIES

HARBOURS, DOCKS, ETC.,

The Harbour Works (Assessment of Environmental Effects) Regulations (Northern Ireland) 1990

Made	*21st May 1990*
Coming into operation . .	*25th June 1990*

The Department of the Environment, and the Department of Agriculture, being departments 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 by that section and of all other powers enabling them in that behalf, make the following Regulations:

Citation and commencement

1. These Regulations may be cited as The Harbour Works (Assessment of Environmental Effects) Regulations (Northern Ireland) 1990 and shall come into operation on 25th June 1990.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**c**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

(2) In these Regulations—

"the appropriate Department" means—

(*a*) in respect of harbour works not being works relating to fishery harbours, the Department of the Environment; and

(*b*) in respect of harbour works relating to fishery harbours, the Department of Agriculture;

"the Directive" means Council Directive No. 85/337/EEC(**d**) on the assessment of the effect of certain public and private projects on the environment;

"environmental assessment" means an assessment in accordance with the Directive;

(**a**) S.I. 1988/785
(**b**) 1972 c. 68
(**c**) 1954 c. 33 (N.I.)
(**d**) O.J. No. L175, 5.7.85 p. 40

"fishery harbour" has the meaning assigned to it by Article 1(2) of the Ministries (Transfer of Functions) Order (Northern Ireland) 1973(**a**);

"harbour" and "harbour authority" have the meanings assigned to them in section 38(1) of the Act of 1970;

"harbour works" means works involved in the construction of a harbour or in the making of modifications to an existing harbour;

"the Act of 1970" means the Harbours Act (Northern Ireland) 1970(**b**);

"the Order of 1972" means the Planning (Northern Ireland) Order 1972(**c**).

(3) For the purposes of these Regulations a harbour authority carries out harbour works if it carries out the whole or any part of such works or any operation in connection with or for the purposes of such works.

Application

3. These Regulations apply to harbour works below the low water mark of medium tides, being works which are not subject to planning control pursuant to the Order of 1972.

Procedure for decision on whether environmental assessment is required

4.—(1) Where a harbour authority proposes to carry out harbour works to which these Regulations apply it shall not commence those works unless the appropriate Department decides as mentioned in paragraph (4) or consents thereto under regulation 8(3).

(2) Where a harbour authority proposes to carry out harbour works to which these Regulations apply the appropriate Department shall consider whether—

(*a*) the works constitute a project which falls within Annex I of the Directive; or

(*b*) the works constitute a project which falls within Annex II of the Directive and, if so, whether their characteristics require that the works should be made subject to an environmental assessment.

(3) The appropriate Department may require the harbour authority to supply it with such of the following information as it deems necessary to enable it to consider whether the proposed harbour works constitute a project falling within paragraph (2)—

(*a*) a brief description of the nature and purpose of the proposed harbour works;

(*b*) a plan sufficient to identify the location of the proposed harbour works;

(*c*) plans and sections showing the lines, situation and levels of the proposed harbour works; and

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(a) S.R. & O. (N.I.) 1973 No. 128
(b) 1970 c. 1 (N.I.)
(c) S.I. 1972/1634 (N.I. 17) as amended by S.I. 1978/1048 (N.I. 18) and S.I. 1982/1537 (N.I. 20)

(*d*) such further information as it may specify in a particular case.

(4) If the appropriate Department decides that proposed harbour works do not constitute a project falling within Annex I or Annex II to the Directive or that they constitute a project falling within Annex II the characteristics of which do not require that the works should be made subject to an environmental assessment, it shall take no further action and shall notify the harbour authority of its decision forthwith.

Information to be supplied by a harbour authority where an environmental assessment is required

5.—(1) If the appropriate Department decides that proposed harbour works constitute a project falling within Annex I of the Directive, or a project falling within Annex II and considers that their characteristics require that the works should be made subject to an environmental assessment, it shall notify the harbour authority of its decision forthwith and direct the harbour authority to supply it in such form as it may specify with the information referred to in Annex III to the Directive to the extent that it considers—

(*a*) that such information is relevant to the specific characteristics of the proposed harbour works and to the environmental features likely to be affected; and

(*b*) that having regard in particular to current knowledge and methods of assessment the harbour authority may reasonably be required to compile that information.

(2) The information to be supplied to the appropriate Department under paragraph (1) shall include at least—

(*a*) a description of the proposed harbour works comprising information on the site, design and size of the proposed harbour works;

(*b*) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;

(*c*) the data required to identify and assess the main effects which the proposed harbour works are likely to have on the environment; and

(*d*) a non-technical summary of the information mentioned in sub-paragraphs (*a*) to (*c*).

Publication of notice by harbour authority

6.—(1) Not less than 14 days before it supplies to the appropriate Department the information referred to in regulation 5 the harbour authority shall publish a notice in a newspaper circulating in the locality of the harbour where the harbour works are proposed to be carried out stating—

(*a*) its name and the location and nature of the proposed harbour works;

(*b*) that it has applied for consent to the carrying out of the proposed works;

(*c*) that it has been directed to supply the information referred to in regulation 5;

(*d*) that a copy of any information supplied under regulation 4(3) together with the information to be supplied under regulation 5 may be inspected by members of the public at all reasonable hours;

(*e*) an address within the locality of the harbour where the harbour works are proposed to be carried out at which the documents open to inspection may be inspected and the latest date on which they will be available being a date not less than 42 days later than the date on which the notice is published;

(*f*) an address (within the locality of the harbour where the harbour works are proposed to be carried out whether or not the same as that named under sub-paragraph (*e*)) at which copies of the information to be supplied under regulation 5(1) may be obtained, for so long as stocks last, and, if a charge is to be made for a copy, the amount of the charge; and

(*g*) that any person who wishes to make representations concerning the proposed harbour works should do so in writing, within 7 days from the date specified in accordance with sub-paragraph (*e*), to the appropriate Department.

(2) On the date of publication of the notice under paragraph (1) the harbour authority shall also post at or outside the harbour authority offices to which members of the public have access a notice containing the information specified in paragraph (1).

(3) The harbour authority shall ensure that the notice referred to in paragraph (2) is—

(*a*) left in position for a period of 42 days from the date of posting;

(*b*) posted by affixing it firmly to a building or object on the premises and is sited and displayed in such a way as to be easily visible to and legible by members of the public; and

(*c*) replaced if it is at any time removed, damaged or defaced.

(4) The information supplied to the appropriate Department under regulation 5 shall be accompanied by—

(*a*) a copy of the notice referred to in paragraph (1) certified by or on behalf of the harbour authority as having been published in a named newspaper on a date specified in the certificate; and

(*b*) a certificate by or on behalf of the harbour authority which states—

(i) that it has posted a notice in accordance with paragraph (2), at or outside the offices of the harbour authority for the harbour in which the harbour works are proposed to be carried out and when it did so; and

(ii) that it has complied with the requirements of paragraph (3)(*b*) and will comply with the requirements of paragraph (3)(*c*) should this be necessary.

Consultation on and holding of inquiry into proposed harbour works

7.—(1) The appropriate Department may direct the harbour authority to supply such bodies as it may specify being bodies appearing to it to have environmental responsibilities, with copies of the information supplied to it under regulation 5.